110-42

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 164.

GEORGE TAYLOR AND FRANK C. WOOD, APPELLANTS,

vs.

ELIZABETH BEMISS, BELLE BEMISS, AND MATTIE BEMISS, BY THEIR NEXT FRIEND, WILLIAM B. WEBB.

No. 165.

ELIZABETH BEMISS, BELLE BEMISS, AND MATTIE BEMISS, BY THEIR NEXT FRIEND, WILLIAM B. WEBB, APPELLANTS,

vs.

GEORGE TAYLOR AND FRANK C. WOOD.

No. 166.

LAURA J. BEMISS (OTHERWISE WILLIS), APPELLANT,

vs.

ELIZABETH BEMISS, BELLE BEMISS, AND MATTIE BEMISS, BY THEIR NEXT FRIEND, WILLIAM B. WEBB.

APPEALS FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED OCTOBER 20, 1880.

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APPEALS FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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1 *Original bill, &c.*

In the supreme court of the District of Columbia.

BELLE BEMISS, ELIZABETH BEMISS, AND MATTIE Bemiss, infants, who sue by their next friend, Henry H. Dudley,
vs.
GEORGE TAYLOR AND LAURA J. BEMISS.
} Equity. No. 5316.

To the supreme court of the District of Columbia:

The bill of complaint of Belle Bemiss, Elizabeth Bemiss, and Mattie Bemiss, infants, who sue by Henry H. Dudley, their next friend, respectfully shows as follows:

First. The said complainants, Belle Bemiss, Elizabeth Bemiss, and Mattie Bemiss, are infants of tender years, and are the children of John Bemiss, late of the parish of Iberville, in the State of Louisiana, deceased, and his wife the said defendant Laura J. Bemiss, and that they are temporarily residing in Ingersoll, in Canada, for the purpose of attending school. The said John Bemiss was at the time of his death a citi-
2 zen of and was residing in Louisiana, and he departed this life in the month of January, 1867. The said complainants, being infants, sue by their next friend, Henry H. Dudley, who is a citizen of the United States, residing in the city of Washington, in the District of Columbia.

Second. The defendant George Taylor is a citizen of the United States, residing in the city of Washington and District of Columbia, and is engaged in the business of prosecuting claims against the United States, and the defendant Laura J. Bemiss is temporarily residing with the complainants in Ingersoll, Canada.

Third. During the war of the rebellion, and some time in the year 1863, a large quantity of property of great value was taken from the said John Bemiss, in said parish of Iberville, in said State, by the military authorities of the United States, and was used for the purposes of the armies of the United States engaged in the suppression of the said rebellion.

Fourth. After the organizations of the Commissioners of Claims, in pursuance of the act of Congress approved March 3rd, 1871, the said Laura J. Bemiss, by her attorney, D. G. Barnitz, esq., caused to be
3 presented to said commissioners, in behalf of herself and of the said complainants, a claim against the United States for the value of said property so taken from said John Bemiss and used by the armies of the United States as aforesaid.

Fifth. On or about the 31st day of May, 1870, the said Laura J. Bemiss took the oath prescribed by the laws of the State of Louisiana, and thereupon the parish court in and for said parish of Iberville, in said State, issued to her letters of natural tutorship as tutrix of her said minor children, the complainants.

Sixth. Afterwards the said Commissioners of Claims awarded to the said Laura J. Bemiss and these complainants the sum of $27,310.00 on account of the said property so taken and used as aforesaid, and reported said *re-*

ward to the Congress of the United States; whereupon an act of Congress was passed and approved on the 14th day of August, 1876, whereby the Secretary of the Treasury was authorized and required to pay out of any moneys in the Treasury not otherwise appropriated the said sum of $27,310.00 to the said Laura J. Bemiss and these complainants, Belle, Elizabeth, and Mattie Bemiss, her daughters.

4 Seventh. After the said claim had been pending before the said Commissioners of Claims for some time the said defendant George Taylor procured from the said Laura J. Bemiss letters of attorney for herself and as tutrix for these complainants, purporting to empower him, the said George Taylor, to collect the said claim, and also procured her, the said Laura J. Bemiss, to sign a pretended agreement, wherein and whereby she purports to stipulate to pay to said George Taylor, for prosecuting said claim, one-half of whatsoever sum of money should be appropriated by law and paid by the United States on account of the said claim. They are informed and believe that said George Taylor asserts and pretends that he holds a valid contract by the terms of which he is entitled to one-half of said appropriation, and that said contract is binding, not only upon the said Laura J. Bemiss but on these complainants; of the particular terms and conditions and form of this pretended agreement these complainants are ignorant, and they do not know whether or not the

5 said Laura J. Bemiss attempted in and by said agreement to bind these complainants and dispose of their interests; but they are advised and believe, and therefore aver, that if she did, in and by said contract, undertake to bind these complainants or to dispose of any of their rights that such contract is null and void; and they are further advised that if said Laura J. Bemiss did sign and deliver any contract whereby she stipulated to pay to said George Taylor for prosecuting said claim against the United States one-half thereof that such contract is contrary both to law and equity, and is null & void, and ought to be canceled.

Eighth. Afterwards, and on or about the 24th day of October, 1876, the said George Taylor collected and received from the Treasury of the United States out of the said appropriation of $27,310.00 the sum of $14,598.33, and paid to or authorized to be paid unto the defendant Laura J. Bemiss out of said appropriation the sum of $12,711.67 only, and that said George Taylor has unlawfully appropriated the said sum of money to his own use, and refused and still refuses to pay over to the com-

6 plainants, or for their use, any part of the said sum so received and unlawfully converted by him.

Ninth. These complainants, by their counsel, have endeavored to obtain a copy of said agreement which is now in the possession of the said George Taylor, but the said Taylor has neglected and refused to exhibit to them the original of said agreement, or to furnish to them or their counsel a copy thereof.

Tenth. The complainants are informed and believe that said George Taylor claims that he made certain disbursements in and about the prosecution of said claim, but the purposes of said alleged disbursements, and the amount thereof, are not known to the complainants, and the said Taylor, although frequently called upon for an account thereof, has neglected to furnish the same, and they are ignorant of them.

Eleventh. These complainants aver that they are entitled to receive each

one-fourth part of the appropriation, and that the said Laura J. Bemiss is entitled to receive one-fourth thereof. And these complainants are willing, if the court so determine, that said George Taylor be paid a
7 reasonable compensation for any services rendered by him in and about the prosecution of said claim, and that he shall be fully reimbursed with interest all sums properly paid out by him in the prosecution of the said claim.

To the end therefore that justice may be done to the complainants, and that the said George Taylor may be compelled to account for the said moneys so by him collected and received, and to discover and produce the said pretended contract the complainant, pray as follows, to wit:

1. That the writ of subpœna may issue to the said George Taylor and the said Laura J. Bemiss in the usual form.

2. That the said George Taylor may be compelled to bring into court the said pretended agreement, and that the same may be decreed to be canceled and annulled.

3. That the said George Taylor may be decreed and required to pay into court, for the use and benefit of these complainants, the amount of moneys by him collected and received out of said appropriation, and that said moneys may be disposed of by the court for the best interests of the complainants and according to law.

8 4. That the said Laura J. Bemiss may be compelled to account for the moneys by her received out of said appropriation.

5. That these complainants, being infants of tender years, and the wards of the chancery court, may have such other and general relief as may be agreeable to equity and good conscience.

BELLE BEMISS,
ELIZABETH BEMISS,
MATTIE BEMISS,
By HENRY H. DUDLEY,
Their next Friend.
HENRY H. DUDLEY.

ENOCH TOTTEN,
Sol. for Complainant.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Henry H. Dudley, being first duly sworn, doth depose and on his oath say that he has read the foregoing bill by him subscribed, and that he knows the contents thereof, and that the facts therein stated are true upon his information and belief.

HENRY H. DUDLEY.

Subscribed and sworn to before me this 28th day of December, 1876.

R. J. MEIGS, *Clerk,*
By L. G. WILLIAMS, *Ass't Clerk.*

9 *Subpœna.*

In the supreme court of the District of Columbia, the 28th day of December, 1876.

BELLE BEMISS ET AL., COMPLAINANT, *against* GEORGE TAYLOR ET AL., DEFENDANT. } No. 5316. Eq. doc. 16. Subpœna to answer.

The President of the United States to George Taylor and Laura J. Bemiss, defendants:

You are hereby commanded to appear in this court at its first special term, occurring twenty days after service of this subpœna, and answer the exigency of the bill this day filed, and entitled as above, under pain of attachment and such other process of contempt as the court shall award.

Witness, D. K. Cartter, chief justice.

R. J. MEIGS, *Clerk*,
By L. G. WILLIAMS, *Ass't Cl'k.*

Marshal's return.

Not to be found'd: Bemiss. Sum Taylor. Dec. 30, 1876.
ALEX. SHARP, *Marshal.*

10 *Order pro confesso.*

BEMISS *vs.* TAYLOR. } 5316. Eq. doc. 16.

Enter decree pro confesso as against George Taylor for want of appearance.

ENOCH TOTTEN,
Sol'r for Pl'ff.

FEB. 6, 1877.

Pro confesso entered.
By the clerk.

Answer of George Taylor.

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL., *vs.* GEORGE TAYLOR ET AL. } 5216. Eq. doc. 16. Answer of George Taylor.

1. I admit that the complainants are infant children of John Bemiss, late of the parish of Iberville, Louisiana, dec'd, and are temporarily residing in Canada, and also the death of said John Bemiss in 1867, and that said Dudley resides in Washington.

11 2. I admit my own residence to be in Washington. I know nothing of the whereabouts of said Laura J. Bemiss.

3. I admit that during the war a large quantity of property was taken from said John Bemiss, in Louisiana, and used by the Army of the United States.

4. I admit that after the organization of the Court of Commissioners on Southern Claims in pursuance of the act of Congress of May 3d, 1871, said Laura J. Bemiss, by her attorney, D. G. Barnitz, caused to be presented in behalf of herself and the complainants a claim against the United States for the value of said property before the said commissioners.

5. I admit that, on or about May 31st, 1870, the parish court in and for Iberville Parish issued to said Laura J. Bemiss letters of natural tutorship, as tutrix or guardian of her minor children, the said complainants.

6. I admit that afterwards said commissioners awarded to said
12 Laura J. Bemiss and the complainants the sum of $27,310 on account of said claim and reported it to Congress, and by an act of Congress of Aug. 14, 1876, the payment of the same was authorized.

7. The circumstances connected with my employment as attorney to prosecute said claim by the said Laura J. Bemiss were as follows, viz: I was engaged in the prosecution of claims of various kinds against the United States in partnership with F. C. Wood, esq., of Washington, in 1873, when I received a letter from Mr. John Rawle, of Natchez, Miss., enclosing one from said Laura J. Bemiss to him, in which she stated that I had been recommended to her as an attorney, that she was desirous of securing my services, and was willing to give me one-half of the claim for the other, and asking a letter of introduction from Mr. Rawle to me. Shortly after this and before I wrote an answer to Mr. Rawle I received a letter directly from said Laura J. Bemiss herself, requesting me to take charge of the prosecution of the claim and offering 50 %. To this I replied, accepting her offer, and in a short time received an answer from
13 her thanking me for consenting to take charge of the case on the terms proposed. Extracts from these letters, containing all that relates to her arrangement with me, are herewith filed, marked "G. T. No. 1." Immediately after this correspondence a form of contract between the said Laura J. Bemiss (for herself and the said infant heirs of John Bemiss) and myself and partner was drawn up, embodying the terms as proposed by her and agreed upon in said correspondence, and enclosed to her, a copy of which contract is herewith filed, marked "Ex. G. T. No: 2," which was returned by her executed, as also a power of attorney to us to prosecute the claim before the commissioners, which it was necessary for us to have, according to their rules, which was likewise executed by her, and which was filed by us with the clerk of said commissioners. An agreement for 50 % for services alone, as attorney in the prosecution of a claim, was more than I was accustomed to charge; but being ignorant of the character of the claim, the labor that would be required in its prosecution, and the chances of success, and the fee being entirely contin-
14 gent, I determined, upon consultation with my partner, to accept the offer, and made the contract, intending to do what might seem liberal and proper in the prosecution of the claim, viz, arrange for the expense of bringing the witnesses on to Washington from La., or to incur such other necessary expenses out of the fifty per centum agreed upon as our fee, as the character of the claim and the chances of success might seem to justify us in doing, upon further investigation of the case. I deny that

said agreement was a pretended one, or that I procured it or the power of att'y aforesaid from her otherwise than I have mentioned, the said contract being executed by her before I or my partner had ever seen her or had any communication with her other than through the correspondence above referred to. I do claim, as alleged, that, this a valid contract, and that it is binding upon the complainants as well as upon the said Laura J. Bemiss, and that the latter, as the guardian of said complainants, had full power and authority under the laws of Louisiana to make, in
15 her own name, any contract necessary and proper to enable her to recover from the United States the claim in which she and her said wards were jointly interested. And I deny that said contract is contrary to law and equity, and maintain that a contingent fee of 50 % for services alone in doubtful cases requiring a great deal of time and labor in their prosecution is not unusual or unreasonable, and that where the att'ys furnish the funds to pay the expenses of witnesses from a distant State, taking all the risks, that a contingent fee of 50 % is the usual fee charged by the profession, and that a contract therefor is just and equitable.

8. I admit that afterwards, on or about Oct. 24th, 1876, I and my said partner drew from the United States Treasury the sum of $14,598.33 as our portion of said claim, which was ascertained and made up as will be hereafter explained, and that the said Laura J. Bemiss drew the residue thereof, viz, the sum of $12,711.67. I admit that I have refused
16 to pay over any part of the amount we so received to complainants, but deny that I have unlawfully appropriated any part of it to my use.

9. I offered to give the attorney of the claimants a copy of the agreement before mentioned, but could not put my hands on it at the time, and before it was done this action was commenced.

10. About January, 1874, the said Laura J. Bemiss came to Washington and represented that she was wholly without means and unable to raise the necessary funds to bring to Washington the witnesses whom it was necessary to examine in support of her claim. I wrote with her concurrence to Hon. Jno. Ray, of New Orleans, on the subject, and he consented to advance the sum necessary in consideration of ten per centum of the claim to be paid to him upon its recovery. These terms were accepted and ratified by Mrs. Bemiss, and upon the collection of the claim we accordingly paid said ten per cent. to Mr. Ray out of the amount which we received. The witnesses were brought on at Mr. Ray's expense, as agreed.

17 The said Laura J. Bemiss, thinking that it would be of importance to her to have an attorney engaged in Louisiana to seek additional evidence in support of her claim, employed for this purpose Mr. Thaddeus Waterman, agreeing to give him ten per cent. of the claim when recovered. Although this was done without our knowledge or consent, we determined to pay the amount so agreed upon to Mr. Waterman out of our stipulated compensation, and did so in consideration of the liberal amount which said Laura J. Bemiss had agreed to pay us, so that finally we received only 30 per centum of said claim as compensation for our own services in the prosecution. Some time after the claim had been in our charge said Laura J. Bemiss commenced to importune me for advances of money, representing herself as destitute, and I advanced money to her

from time to time to the amount of $800, for which she gave me her note bearing interest. The amount of said note and interest, the twenty per cent. of said claim paid by us to said Ray and Waterman, and the thirty per cent. reserved for our own services, make up the amount drawn
18 and collected by us from the United States Treasury as aforesaid on the endorsement of said Laura J. Bemiss.

11. I deny that said complainants are entitled each to one-fourth, and the said Laura J. Bemiss to one-fourth of said claim, but am advised that said Laura was entitled to one-half the claim, and the complainants to the other half between them.

And further answering, I say that the claim in question exacted from me and my aforesaid partner an unusual amount of labor, and as a quantum meruit, independently of any express agreement, the compensation which we retained was, as a contingent fee, just, moderate, and reasonable, as I am prepared to prove. And I submit that if it could be otherwise decided, still the said agreement was binding on the said Laura J. Bemiss, with whom it was made by us; and as she alone, and not the complainants, had the legal right to receive the fund, we were entirely discharged from any accountability by our settlement with her; and if she
19 exceeded her authority in allowing to us the compensation we received, the recourse of the complainants must be against her and her share of said fund, and not against me, with whom they were in no privity by contract or otherwise.

GEO. TAYLOR.

WALTER COX, *Sol.*

I do solemnly swear that I have read the answer by me subscribed and know the contents thereof, and that the facts therein stated upon my personal knowledge are true, and that the facts therein stated upon information and belief I believe to be true.

GEO. TAYLOR.

Sworn to this 10th day of February, A. D. 1877.
[SEAL.] GEO. A. HYDE,
Notary Public.

20 *Exhibit G. T. No. 1.*

PECAN GROVE PLAIT,
(*Near Plaquemine, Iberville Parish, La.,*) *Oct. 12th.*

To Mr. GEO. TAYLOR, *Washington, D. C.:*

DEAR SIR: Having a large and important claim against U. S. G. and not being satisfied with the lawyer who has it in charge, I am exceedingly anxious to transfer it into your hands. Mr. Robert Bradford, Washington City, has had the claim for nearly one year.

* * * * * * *

I'm willing, Mr. Taylor, to give one-half of this claim.

* * * * * * *

I'm making desperate efforts Mr. Taylor, to reach W. City, and just as soon as I can get the funds I will be on; in the mean time let me implore

you to do all you can for the widow and orphans, and believe me your efforts will certainly be crowned with success.

With many thanks, and hoping we will soon meet, I remain, very respectfully,

Mrs. LAURA J. BEMISS,
Widow of John Bemiss, of the Parish of Point Coupée Parish.

21 *Exhibit G. T. No. 2.*

The undersigned hereby agree to employ Messrs. Taylor, & Wood, of Washington, D. C., as her attorneys for the prosecution of her claim against the United States, now pending before the Southern Claims Commission, No. 7316, on behalf of herself and minor heirs of John Bemiss, dec'd, and in consideration of the services of Taylor and Wood in prosecuting said claim against the Government, she hereby agrees to give them fifty per centum of whatever sum or sums of money may be recovered from the U. S. Government on account of said claim.

Plaquemine, Iberville Parish, La., November 25th, 1873.

LAURA J. BEMISS.

22 *Answer of Laura J. Bemiss.*

In the supreme court of the District of Columbia.

Belle Bemiss, Elizabeth Bemiss, and Mattie Bemiss, infants, who sue by their next friend, Henry H. Dudley, vs. George Taylor and Laura J. Bemiss.	}	Equity. No. 5316.

The separate answer of Laura J. Bemiss to the bill of complaint of the above-named complainants.

This defendant, answering for herself, says that she admits all the allegations contained in the said bill of complaint as therein stated, except that she says she has no recollection of taking any oath, or of the issuing to her of the letter of tutorship appointing he' tutrix of her said minor children, as alleged in the fifth paragraph of the said bill, and she cannot admit, but does not deny, the allegations contained in the said fifth paragraph of the said bill.

Further answering the said bill of complaint, she says that the
23 whole amount of money received by her out of the appropriation mentioned and described in the said bill of complaint was the sum of $12,711.67, and that she has expended a part of the sum for disbursements necessarily made in and about the collection thereof, and for the support of herself and the said complainants, her infant children, and for their education, and that she is now using the said money for that purpose.

Further answering, she says that she is unable to give the terms and conditions or the form of the contract signed by her and held by the said defendant, George Taylor. That when she employed the said George Taylor to prosecute the said claim she was entirely ignorant of the manner of doing business, and was ignorant of her own rights of property and of

the rights of her infant children, and of her duties as their natural protector and guardian, and that having confidence in the integrity and fair dealing of the said George Taylor as an attorney and counsellor at law and officer of this court, she was guided by and entirely relied upon his advice in and about the premises, and that she executed all papers
24 which he presented to her as necessary in the prosecution of said claim without regard to the terms and conditions thereof.

Further answering the said bill of complaint, she says that she is ready and willing at all times to account for all sums of money which she has received for or on account of the said complainants, her infant children.

LAURA J. BEMISS.

CANADA,

County of Wentworth, ss:

Laura J. Bemiss, being by me first duly sworn, doth depose and on her oath say, that she has read the foregoing answer by her subscribed and that she knows the contents thereof, and that the facts stated therein as of her own knowledge she knows to be true, and that the facts therein stated upon information and belief she believes to be true.

LAURA J. BEMISS.

Subscribed and sworn to before me this 12th day of January, 1877.

[SEAL.] H. RAY MYERS,

U. S. Consul and Ex-Officio Notary Public.

25 *Cross-bill of Laura J. Bemiss.*

In the supreme court of the District of Columbia.

BELLE BEMISS, ELIZABETH BEMISS AND MATTIE Bemiss infants, who sue by their next friend, Henry H. Dudley,
vs.
GEORGE TAYLOR AND LAURA J. BEMISS. } Equity. No. 5316.

The cross-bill of Laura J. Bemiss, filed in the above-entitled cause, by leave of the court first had and obtained, respectfully shows:

First. That by virtue of an act of Congress, approved August 14th, 1876, entitled: "An act making appropriations for the payment of claims reported allowed by the Commissioners of Claims under the act of Congress of March third, eighteen hundred and seventy-one, and for other purposes," an appropriation of the sum of $27,310.00 was made for your oratrix and her three daughters, Belle, Elizabeth, and Mattie Bemiss, the complainants in the original bill, who are infants of tender years, being aged, respect-
26 ively, eight, sixteen, and ten, and the Secretary of the Treasury was authorized and required by the said act to pay to your oratrix and her said three children the said sum out of any moneys in the Treasury of the United States not otherwise appropriated. The said appropriation was for the purpose of paying an award made by the Commissioners of Claims, commonly called the Southern Claims Commission, to your oratrix and her said three infant children, on account of property taken from her late husband, John Bemiss, of the Parish of Point Coupée, in the State of Louisiana, some time in the year 1863.

Second. The said John Bemiss died in the month of January, in the year 1867, and thereupon and soon after the organization of the said commissioners of claims under the said act of 1871, he caused a claim to be preferred against the United States to the said commissioners of claims for the value of the said property so taken from the said John Bemiss and used by the armies of the United States. The said claim was prepared by one D. G. Barnitz, her attorney, and was presented to the said commissioners for their examination. Afterwards she was induced by the
27 recommendations of various persons to secure the services of the defendant, George Taylor, to assist her in the prosecution of the said claim. The said George Taylor had for a long time theretofore been a resident of the city of Washington, and was then and now is engaged in the business of prosecuting claims against the Government of the United States, and that at the time of her arrangement with the said George Taylor in regard to the said prosecution of the said claim, the said Taylor prepared for her to sign and she did sign, as she believes, some kind of a certificate or contract in writing, in and whereby she stipulated that the said George Taylor should be paid for his services in the prosecution of the said claim one-half of whatever sum of money might be appropriated and paid by the United States thereon, but as to the particular language of the said contract and the particular form of it and whether it is a contract or a certificate only she is unable to state. She has never seen the said contract since she signed it and she cannot from memory give any intelligent state-
28 ment of its contents, but the said Taylor has insisted, and does insist, that by virtue of the said contract he was and is entitled to retain out of the amount of the said appropriation one-half thereof for his services. At the time of signing said contract she had great confidence in the fair dealing and integrity of the said George Taylor as a counsellor-at-law, an officer of this court, and that she signed all the papers which he prepared and presented to her for the purpose of enabling him to prosecute the said claim with success upon his representation that such papers were necessary and proper. She was entirely unaccustomed to any business of any kind or character and was ignorant of her own rights in the premises and of the rights of her infant children. She is advised by counsel and believes, and therefore charges, that if the said Taylor does hold in his possession the contract or agreement signed by her, either in her individual capacity or as tutrix and natural guardian of her children, whereby she stipulates and agrees that the said George Taylor shall be paid for his said services one-half of whatever amount may be received on such claim,
29 that such contract is unjust and unlawful, and that a court of equity ought to and will decree the same to be null & void.

Third. Your oratrix is informed and believes and therefore charges that all the services rendered by the said George Taylor in and about the prosecution of the said claim consisted in procuring the depositions, and that he furnished no other or further evidence and prepared no other papers or documents therein.

Fourth. That on or about the 24th day of October, 1876, the said George Taylor received from the Treasury of the United States on account of said appropriation the sum of $14,598.33, being one-half of the amount of the said appropriation for his services as claimed by him, and the additional sum of $943.33 for expenses alleged and claimed to have been incurred by him in the prosecution of the said claim and for money alleged by him to

have been loaned to your oratrix, and that out of the said appropriation the said George Taylor authorized and directed the Secretary of the Treasury to pay to your oratrix for herself and her said children the
30 sum of $12,711.67 only, being the balance of the said appropriation after deducting the amount claimed by him. Being convinced of the injustice and wrong which the said Taylor was attempting to perpetrate upon her and her infant children, she presented to the Secretary of the Treasury before the said appropriation became payable a formal revocation of the powers of attorney held by said George Taylor from her, and by him filed in the Treasury Department, and that she endeavored to prevent the Secretary of the Treasury from paying any money to the said Taylor until the matters of difference could be properly adjusted and the rights of all the parties in and about the said claim judicially determined; but that the said Secretary of the Treasury of the United States refused to consider her claims and protest, and insisted upon paying over to the said George Taylor the check or draft for the whole amount of the appropriation.

Fifth. That the said amount of money so allowed by the said act of Congress is all the means your oratrix has left to educate her children,
31 and that she is entirely dependent upon the amount of money thus allowed by Congress for her own maintenance and that of her children; and she says that she is in delicate health and unable to perform any kind of labor or engage in any kind of business for a livelihood. For purposes of economy she is temporarily residing in Ingersoll, in Canada, where her children are attending school, and that she is personally engaged in caring for their welfare, and that she is pursuing a course of the most careful economy and is attending to no other business than that of overseeing the education of her children. To the end, therefore, that justice may be done, and that the rights of your oratrix and of her infant children may be protected, she asks leave to file this cross-bill, and prays as follows:

1. That a writ of subpœna may be issued in due form of law, addressed to the said George Taylor.

2. That the said defendant George Taylor may be required to produce in court whatever contract, certificate, agreement, or agreements signed by her touching the premises which he may hold in his possession, and
32 that the same may be decreed null and void.

3. That the said George Taylor may be required to bring into court all the money by him received from the Treasury of the United States on account of the said appropriation, and that he may be compelled to account therefor.

4. That an account may be stated between the said George Taylor, the said infant children, and your oratrix, and that said George Taylor may be paid a reasonable compensation for such services as he may have rendered, and that he may be reimbursed for all the money he properly expended in and about the prosecution of the said claim, and that the balance of said fund may be disposed of according to law for the benefit of the said infant complainants & for your oratrix.

5. That your oratrix may have [*torn out*] relief as may be agreeable to equity & good conscience.

LAURA J. BEMISS.

CANADA,
County of Wentworth:

Laura J. Bemiss, being by me first duly sworn, doth depose and
33 on her oath say that she has read the foregoing cross-bill by her subscribed and knows the contents thereof, and that the facts stated therein as of her own knowledge she knows to be true, and that the facts therein stated upon information and belief she believes to be true.

LAURA J. BEMISS.

Subscribed and sworn to before me this 12th day of January, 1877.
[SEAL.] H. RAY MYERS,
U. S. Consul & Ex officio Notary Public.

34 *Replication.*

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL., BY THEIR NEXT FRIEND Henry H. Dudley,
vs.
GEORGE TAYLOR AND LAURA J. BEMISS. } Equity. No. 5316.

The plaintiffs hereby join issue with the defendants George Taylor and Laura J. Bemiss.

ENOCH TOTTEN,
Att'y for Pl'ffs.

35 *Amendment to bill.*

In the supreme court of the District of Columbia.

BELLE BEMISS, ELIZABETH BEMISS, AND MATTIE Bemiss, by their next friend Henry H. Dudley,
vs.
GEORGE TAYLOR AND LAURA J. BEMISS AND Frank C. Wood. } Equity. No. 5316.

The amended bill of the above-named complainants.

And now come the said complainants Belle Bemiss, Elizabeth Bemiss, and Mattie Bemiss, by their next friend Henry H. Dudley, and amend their bill in this cause by making a party defendant thereto Frank C. Wood, and they pray that a subpœna may be issued from the clerk's office in the usual form, directing him to answer the original bill in this cause, and the amended bill.

ENOCH TOTTEN,
Sol'r for Complainant.

36 *Subpœna.*

In the supreme court of the District of Columbia, the 19th day of June, 1877.

BELLE BEMIS ET AL., COMPLAINANT', *vs.* GEO. TAYLOR ET AL., DEFENDANT'. } No. 5316. Eq. doc. 16. Subpœna to answer.

The President of the United States to F. C. Wood:

You are hereby commanded to appear in this court at its first special term, occurring twenty day' after service of this subpœna, and answer the exigency of the amended bill this day filed, and entitled as above, under pain of attachment and such other process of contempt as the court shall award.

Witness D. K. Cartter, chief-justice.

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR.,
Ass't Clerk.

Return of marshal.

Summoned def't, F. C. Wood, Dec. 29, 1877.

F. DOUGLAS, *Marshal.*

37 *Answer of George Taylor to cross-bill.*

In the supreme court of the District of Columbia.

BEMISS ET AL. *vs.* TAYLOR ET AL. } No. 5316. Equity.

Answer of George Taylor to the cross-bill of Laura J. Bemiss.

1. I admit the appropriation by act of Congress of the sum mentioned in payment of award in favor of the complainant, for herself and children, as set forth in the bill.

2. I wholly deny that said complainant was ignorant of her rights and those of her children, as alleged. I admit that she signed a contract prepared by myself and partner, and for the circumstances under which said contract was executed and I was employed I refer to and adopt as part of this answer, my answer to the original bill in this cause.

3. I wholly deny the averments as to my services, and state that
38 to the contrary thereof the case required unusual labor on our part in the preparation of evidence and argument before the commissioners, and I will be prepared to shew that the services rendered were fully worth the compensation received independently of the express contract of the complainant on that subject.

4. I admit the receipt of one-half the amount awarded to complainant, out of which I retained only 30 % as compensation for myself and partner, paying over the remaining 20 %, 10 % to Judge Rap and 10 % to

Mr. Waterman, due them under their contract from Mrs. Bemiss, but which I voluntar'y assumed to pay; and I also received an additional sum for money advanced to complainant, and no portion of this was for expenses incurr'd by me as alleged by her, for particulars of which I refer to my answer to the original bill. I admit further that the complainant made representations to the Secretary of the Treasury, and endeavored to prevent us from receiving the above sums under her power of attorney to us, to which representation we replied, showing their falsity, and that
39 the Secretary thereupon refused to interfere with our collection of the money.

5. I know nothing of the circumstances of the complainant or the other matters stated in paragraph No. 5 of her cross-bill.

I do solemnly swear that I have read the answer above by me subscribed and know the contents thereof, and that the facts therein stated upon my personal knowledge are true, and those stated on information & belief I believe to be true.

GEO. TAYLOR.

Sworn to and subscribed before me this 16' day of June, 1877.
[SEAL.] GEO. A. HYDE,
Notary Public.

40 In the supreme court of the District of Columbia.

BEMISS ET AL. *vs.* TAYLOR ET AL. } Equity. No. 5316.

Answer of F. C. Wood to the bill of complaint and to the cross-bill of Laura J. Bemis in the above cause.

This defendant, answering for himself, says that he has read over the answers of the defendant George Taylor to the bill of complaint and to the cross-bill of Laura J. Bemis in the above cause, and that he adopts the same as his own answers thereto; that the facts therein stated, as far as they come within his personal knowledge, are true, and that the facts therein stated not within his personal knowledge he believes to be true.

F. C. WOOD.

I do solemnly swear that I have read the answer by me subscribed, and know the contents thereof, and that the facts therein stated upon my personal knowledge are true, and that the facts therein stated upon information and belief I believe to be true.

F. C. WOOD.

41 Subscribed and sworn before me Mar. 5, 1878.
R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR., *Ass't.*

42 *Complainants' testimony.—Filed Sept.* 24, 1877.

In the supreme court of the District of Columbia, the 19th day of June, 1877.

BELLE BEMISS ET AL., BY THEIR NEXT FRIEND Henry H. Dudley, *v.* GEORGE TAYLOR AND LAURA J. BEMISS. } No. 5316. Equity, docket 16.

The President of the United States to Henry R. Myers, United States consul, Hamilton, Canada, greeting:

Know ye, that in confidence of your prudence and fidelity, you have been appointed, and, by these presents, you are invested with power and authority to examine Laura J. Willis (otherwise Laura J. Bemiss) as a witness for the plaintiff in the above-entitled cause upon the interrogatories and cross-interrogatories annexed to this commission; and, therefore, you are hereby commanded at a certain day and place, or certain days and places, to
43 be appointed by you, to cause said witness to come *to come* before you, and then *are* there examine her, on oath or affirmation, upon the said interrogatories and cross-interrogatories, and reduse her testimony into writing, to be signed by said witness, and, having so done, annex the same to this writ, closed up under your seal, and make return thereof into said court with all convenient speed.

Witness D. K. Cartter, chief-justice.

[SEAL.]

R. J. MEIGS, *Clerk*,
By M. A. CLANCY,
Ass't Clerk.

44 In the supreme court of the District of Columbia.

BELLE BEMISS ET AL., BY THEIR NEXT FRIEND Henry H. Dudley, *vs.* GEORGE TAYLOR AND LAURA J. BEMISS. } Equity. No. 5316.

It is hereby stipulated and agreed that a commission may be issued by the clerk of this court in the usual form, directed to Henry R. Myers, United States consul at Hamilton, in Canada, authorizing and empowering him to take and return the deposition of Laura J. Willis, otherwise Laura J. Bemiss, upon the interrogatories and the cross-interrogatories hereunto attached; such deposition to be used upon the hearing of this cause, subject to all legal objections and exceptions from either party.

ENOCH TOTTEN, *For Compl'ts.*
W. S. COX, *For Def't.*

45 In the supreme court of the District of Columbia.

BELLE BEMISS ET AL., BY THEIR NEXT FRIEND Henry H. Dudley,
vs.
GEORGE TAYLOR AND LAURA J. BEMISS. } Equity. No. 5316.

Interrogatories to be administered unto Laura J. Willis on behalf of the complainant in the above-entitled cause, in her examination by Henry R. Myers, commissioner.

1. What is your present name and post-office address?

2. When and where were you married to your present husband, Mr. Willis?

3. Were you the widow of *of* John Bemiss, deceased, late of the parish of Iberville, in the State of Louisiana? If yea, state when you were married to the said John Bemiss, and where.

46 4. When and where did John Bemis die?

5. How many children resulted from the marriage between yourself and the said John Bemiss, and how many of them were living at the time of his death, and how many of them are living now?

6. What are the names and ages of each of these children?

7. At the time of the death of John Bemiss, did he, or did he and you together, prefer a claim against the United States? And if you did, please state how the claim originated, and when, and please state for what.

8. If the claim arose from property taken by the military forces of the United States, state when the property was taken, in what it consisted, and from whom and from what place.

9. Did John Bemiss ever prefer a claim against the United States to any Department of the Government for this property within your

47 knowledge? And if he did, state when, and to what Department.

10. Did you ever prefer a claim against the United States for this property so taken? And if you did, state when you did it, and state who was your attorney or counsel in the matter, and who prepared the papers; and was such claim in behalf of yourself or of yourself and infant children?

11. If, in your answer to the last interrogatory, you say that D. G. Barnitz was your counsel in the preparation and presentation of your claim for this property, state how long the said Barnitz continued to manage your said case; and if the said Barnitz is dead state when he died as nearly as you can; and, if you know, state where he died; if he is not dead, then state where he now resides, if you know.

12. When did you first have communication with the defendant, George Taylor, in relation to this suit, and upon who' recommendation did

48 you have such communication with him?

13. Have you any letters received by you from the said George Taylor, touching the business of this claim? If you have, hand the same to the commissioner for the purpose of being marked and attached to your deposition.

14. Did you or not in November, 1873, and about the 25th day thereof, sign and acknowled' a power of attorney, authorizing George Taylor and F. C. Wood to prosecute your claim against the United States? And if you

did, please state how and from whom you received the power of attorney; whether it was sent to you by mail, or delivered to you in person by Taylor, or by any person for him. State also, if you can, what was said, if anything, at the time this power of attorney was presented to you for exec'tion and acknowledgment.

15. Did you on or about the 8th day of January, 1875, in the city of Washington, execute and acknowledge another power of attorney
49 authorizing George Taylor to prosecute your claim and to receive such draft as might be issued thereon? And if you did, state who it was that brought such power of attorney to you, who prepared it, and who requested you to execute and acknowledge the same. State further what was said at the time of the acknowledgment by you of this power of attorney by Mr. Taylor, if anything, or by anybody else.

16. To whom did you deliver this last power of attorney?

17. Did you, on or about the 25th day of November, 1873, sign any memorandum of agreement with Taylor and Wood, in relation to the amount of fees to be paid to them in case of success in the collection of this claim? If you did, please state where you signed that paper and upon whose request. Was it sent to you by mail by Taylor and Wood, or either of them, or was it delivered to you in person by any person? If delivered in person, state who delivered it to you, and state where and
50 wh*at*, and what was said, if anything, at the time of the execution of the contract.

18. If this memoran*d*um of agreement was sent to you by mail by Mr. Taylor, or Taylor and Wood, have you the letter transmitting the same to you? If yea, hand it to the commissioner *be* be marked and attached to your deposition.

19. At the time of signing this paper, if you did sign it, did you read it over, or were the contents thereof explained to you by anybody; and, if so, by whom?

20. Had you, at the time of signing this memorandum, any experience in business matters, and were you aware of the nature of the bargain which you were making with Mr. Taylor, so far as it related to yourself and to the rights of your infant children?

21. How much money did you suppose you were entitled to recover from the United States on account of your claim?

51 22. Did Mr. Taylor give you any assurance as to the amount that you would probably receive on account of your claim? And, if he did, state what they were.

23. Can you state the condition of the case at the time Taylor and Wood took charge of it?

24. Can you give any idea as to the services rendered by Messrs. Taylor and Wood in the conduct of the case? How many witnesses did they bring from Louisiana to testify in the case, and how many depositions, if you know, did they procure in the case?

25. Where were you at the time this money was paid by the Treasur Department, on account of these claims? If present in Washington, how did it happen that you endorsed the draft?

26. Did you protest against the payment of the money to Mr. Taylor, and did you, either in person or otherwise, forbid Mr. Taylor from taking this money?

52 27. What means have you upon which to rely for the education and maintenance of your three children and yourself?

28. Where do you now reside, and how long have *long have* you resided there, and for what purpose?

29. Do you expect to return eventually to Louisiana to reside there; and do you intend that your children shall return to that State to reside?

30. What was your financial condition at the time the money was paid over to Mr. Taylor?

31. Do you know of any other matter or thing material to the issue in this cause, or that would be of benefit to the plaintiffs therein? If you do, state it, and state it fully and at large.

ERNST TOTTEN,
Sol'r for Plaintiffs.

Interrogatories Nos. 27, 28, 29, & 30 are objected to as irrelevant.

W. S. COX,
Sol'r for Def't Taylor.

53 In the supreme court of the District of Columbia.

BEMISS ET AL. *vs.* TAYLOR ET AL. } Equity. No. 5316.

Cross-interrogatories to be answered by Laura J. Bemiss.

Int. 8. Who brought the plantation into the marriage partnership; yourself or husband; and was the stock, sugar, molasses, corn, and other pr'ducts for which you recovered, raised on said plantation before your marriage with your husband, John Bemiss?

Int. 11. Did you employ the said Barnetz; if so, when and where? Did he prepare your petition in the claim, and what else did he do in the prosecution of the claim? Did you correspond with him; and, if so, annex his letter to your answer? Did you employ any one else in the prosecution of your claim before you employed Taylor and Wood; if so, who?

54 Int. 11. Did said Barnets ever render any service in your case other than filing the printed petition, or did any other attorney, except Mr. Taylor or Messrs. Taylor and Wood, ever file any papers *on* evidence in the case, or appear before the commission, or do anything to advance your claim before said commission; and, if so, who was the attorney and what was done by him?

Int. 12. Did you not apply to the party recommending said Taylor for a letter of introduction; and, if so, why did you do so; and did you not state to him the terms on which you proposed to employ said Taylor?

Int. 14. At the time you executed that power of attorney did you also execute a contract for the prosecution of said claim; and who first suggested the amount to be allowed for commission and fees for prosecuting said claim? Did you not voluntarily offer fi'ty per centum of said claim, and afterwards, on their acceptance by letter, did you not reply by letter, thanking the said Taylor & Wood for accepting your terms, and if so file their letter of acceptance and their letter transmitting the

contract for you to execute? And say if there was any other correspondence or conversation between you and said Taylor & Wood prior to the execution of said contract; or, if there was any other letter prior to that, file it.

Int. 19. Who suggested the contract to you, and who fixed the amount of compensation for the services of Taylor & Wood; and were you satisfied with the contract as executed by you? Have you at any time stated to other parties the nature of the contract you may with Taylor & Wood; and especially did you not state the whole matter to Judge Aldis of the Claims Commission during your first visit to Washington in the prosecution of this claim; and did you not express your satisfaction with your contract? Have you not sworn to employment of Taylor & Wood and the reasons for their employment in this case?

Int. 20. Did you not, shortly after you came to Washington in 1874, receive a letter from Col. F. H. Claiborne, of La., who was afterwards a witness in your case, fully explaining the nature of the contract
56 you had made with Messrs. Taylor & Wood and the obligations you had incurred, and did you not hand that letter to them at his request, and have you not conversed with him and also with other parties in Washington in regard to these obligations and the rights of yourself and children under your contract; and have you not, in letters to Mr. Taylor, as late as August, 1875, expressed your understanding of your agreement with him to be that you were to receive only 30 per cent. for yourself and children after paying expenses, viz, the 50 % to Messrs. Taylor & Wood and the 20 % you contracted to pay Judge Ray and Mr. Waterman, and did not said Taylor voluntarily release you from the payment of said 20 % and pay it himself and assume it?

Int. 21. On what ground did you base your expectations as to the amount of money you were to receive from the United States on account of your claim?

Int. 22. Did Mr. Taylor ever give you assurances as to the amount you would probably receive; and, if so, state when they were
57 made, whether orally or in writing, and, if the latter, produce any letters from him on the subject, and state further whether such assurances were not made after Mr. Taylor was employed and the agreement with him and Wood executed. Were you not told by Mr. Taylor that your claim would be cut down to about thirty thousand dollars, and were you not told by Taylor & Wood, or any of them, that the item of your claim for destruction of your gin-house and sugar-house and fixtures, etc., amounting to $45,000, could not be allowed by the commission, and that the balance of the claim, if allowed, would be very greatly reduced in amount; and were you not so told in their first conversations with you on the subject after you came to Washington, in January, '74?

Int. 23. What means had you of knowing, and from whom did you know, of the condition of your claim when Messrs. Taylor & Wood were employed?

Int. 24. What means had you of knowing of the services rendered
58 by Messrs. Wood & Taylor? Were you present personally during the rendition of their services, or do you speak from hearsay?

Int. 24. Were you personally present at all the examinations of witnesses in the case? Have you any idea of the amount of testimony taken in the case or of the time spent by your counsel in interviews with the

commissioners and in arguing the case with them, and do you not know, that there were repeated efforts made by your enemies to defeat your claim, and documents, amongst them a large bundle of your letters to one Sam'l Ayler, sent on to the commission with that object, and do you not know that it required a great deal of watchfulness and attention to the case and correspondence on the part of your attorneys to prevent them from succeeding in defeating your entire claim, and do you not know that a large portion of the reduction of your claim was *claim was* caused by the efforts of said parties; and do you not know that after your claim had been allowed by the commission and was before Congress that efforts were
59 made to defeat it, and that it was at one time ordered to be referred back to the commission for further examination, and that it required much time and attention to have it reinstated, and were you not advised of all these difficulties and the labors of your attorneys at the time; and have you not by letter expressed your gratitude to them for their time and attention to your interests and your entire satisfaction with the conduct of your case?

Int. 24. Did not Taylor and Wood distinctly refuse to bring any witnesses from Louisiana? Did you not make a distinct contract with John Ray, of New Orleans, of La., to bring your witnesses here, and agree to pay him ten per cent. for his services in that respect, and did not Taylor & Wood voluntarily agree to share that expense with you, and afterwards did they not pay the whole of said ten per cent.? Have you been called upon for such payment by said Ray or any one else? And did you not, without consulting with your said attorneys, make an agreement with
60 one Thadeus Waterman, of New Orleans, to aid in hunting up your witnesses and other services and agree to pay said Waterman ten per cent. of the amount recovered in your claim, and did not Taylor & Wood voluntarily pay that ten per cent. out of their fees in order to protect you from said payment? Have you not heard, directly or indirectly that they paid it, and have you ever been called upon for it by any one?

Int. 25. Did you not conceal yourself for some time in Washington at the time when the money was payable at the Treasury, or at least conceal the fact of your presence there from Taylor & Wood, and did you not endeavor to prevent their collection of the claim?

26. By whose advice did you begin this suit? Have you any agreement with anybody about advancing you money for the payment of fees for prosecuting this suit and shearing the amount recovered?

W. S. COX,
Sol'r for Def't Taylor.

61 In the supreme court of the District of Columbia.

BELLE BEMISS AT AL., BY THEIR NEXT FRIEND, Henry H. Dudley,	Equity.	No. 5316.
vs.	Docket.	" 16.
GEORGE TAYLOR AND LAURA J. BEMISS.		

On this, the eighteenth day of September, 1877, at nine o'clock a. m., at the consulate, appeared before me, Henry R. Myers, consul of the United States at Hamilton, Ontario, Canada, and commissioner in the

above-named cause, acting under the direction of the supreme court of the District of Columbia, Laura J. Willis (otherwise Laura J. Bemiss), a witness in the aforesaid cause, and, after first being duly sworn according to law, made answer to the following interrogatories from number (No. 1) one to number thirty (No. 31) one, inclusive, as follows, to wit:

No. 1. In answer to interrogatory No. 1 she said: Laura J. Willis, Hamilton, Ontario, Canada.

62 No. 2. In answer to interrogatory No. 2 she said: On November 9th, 1876, in the parlors of the Rev. Dr. Ormiston, in New York City.

No. 3. In answer to interrogatory No. 3 she said: Yes; I was the widow of the late John Bemiss, deceased, of the parish of Pointe Coupée (not Iberville Parish, as stated), in the State of Louisiana. I was married to John Bemiss on the 16th June, 1859, at Pecan Grove Plantation, Iberville Parish, in Louisiana.

No. 4. In answer to interrogatory No. 4 she said: He died at Pecan Grove Plantation, Iberville Parish, La., when on a visit to my mother, January 1st, 1867.

No. 5. In answer to interrogatory No. 5 she said: Three daughters; two while he was living, and one, the youngest, two months after his death. All three are now living.

No. 6. In answer to interrogatory No. 6 she said: Elizabeth Metcalf, aged 17 years; Mattie Sample, aged 12 years; Belle Cyrene, aged 10 years.

63 No. 7. Inanswer to interrogatory No. 7 she said: No; Mr. Bemiss did not prefer a claim, but I preferred the claim myself some years after his death, when the United States Government offered to pay claims of this character, being mostly for commissary stores. We had live stock (horses, mules, sheep, beeves, hogs, etc)., sugar, molasses, corn, grain, fodder, wood, fencing, etc., taken by the United States troops at the time Gen'l Banks' army came down Red River and crossed at Bayou Sara to attack Port Hudson.

No. 8. In answer to interrogatory No. 8 she said: It was taken from our (Lakeland) plantation, in the parish of Pointe Coupée, opposite Bayou Sara, at the time Gen'l Banks' army came down the western bank of the Mississippi River, camped on the plantation, and crossed over to Bayou Sara to storm Port Hudson, and consisted live stock, provisions, etc., as stated before.

No. 9. In answer to interrogatory No. 9 she said: No.

64 No. 10. In answer to interrogatory No. 10 she said: Yes; in about the year 1871, as near as I can remember, Judge Foute & Bradford, of New Orleans, La., advised me and first assisted to get up the papers, and sent them on to Washington to be filed on behalf of myself and infant children.

No. 11. In answer to interrogatory No. 11 sh' said: I knew nothing of D. G. Barretz personally as being my counsel until after I came to Washington, in 1874, but believe him to have been the party to whom the papers were sent by Bradford, of New Orleans, but know that the papers were all prepared and filed and everything done, we only awaiting an anticipated action of Congress to appoint commissioners to take depositions in Louisiana, thus relieving me of the extra expense of bringing on wit-

nesses to Washington, which was hard to be borne, as neither my attorneys or myself could spare the necessary funds, thus delaying the case about two years, but do not know if Barnetz was dead at the time Taylor took the case, or if he has since died, or is now living.

No. 12. In answer to interrogatory No. 12 she said: I think
65 about the year 1873 I was advised by Major Rawle, of Natchez, Mississippi (who I believe got a claim through Mr. Taylor) to write to him (Taylor), and that he would advance all the necessary funds to take the witnesses on to Washington and defray all expenses, but that he would want one-half for so doing, and that he was the best man to employ to manage the case, and that he would recover the full amount, and recommended me to employ him, arguing with me that it was better to get half than wait.

No. 13. In answer to interrogatory No. 13 she said: I have none. Most of the letters received were sent to my brother-in-law in New Orleans for perusal, and are not yet returned, owing to his illness and absence from New Orleans; others are lost or misplaced in travelling about.

Ans. 14. In answer to interrogatory No. 14 she said: Yes, I believe I did. It was received by mail; executed and returned by mail. As Mr. Taylor, in his letters before, assured me that he could do nothing until he had such a power of attorney.

66 No. 15. In answer to interrogatory No. 15 she said: No, not that I knew of at the time, but when in Washington last summer learned he had such a document. I recollected the date and the time it must have been signed; as I was about returning to Canada (where my children were at school) after a very disappointed trip, having been ordered on to Washington by Mr. Taylor, and expecting to get my award, and after I got there was told that the commiss'ers had laid the case over for further evidence; but this I remember, late on the day I was to leave (on or about the 8th) Mr. Taylor came to the hotel and got me to go with him to an office, telling me that he wanted me to sign an acknowledgment for the money he had advanced me, and also another paper which he gave me to understand he required in the bank to procure me fifty dollars ($50) a month, which he promised to supply me with until the claim was adjusted. He gave me at that time some money to pay my hotel expenses and take me back to Canada. I think about one hundred ($100) dollars, but never fulfilled his promise to send me ($50) fifty dollars a
67 month, nor have I had any money since. I was in very straightened circumstances at the time and since, but although I had often applied to him for relief, did not get any. It was about dusk, and in the hurry getting ready to leave I did not read the papers, nor were they read to me by Mr. Taylor, or any one else, being simply asked to sign, and did so, thinking them as represented and believing Mr. Taylor an honorable gentleman; but am now under the impression that this must have been the time he obtained that power of attorney, as I never executed any other papers for him.

No. 16. In answer to interrogatory No. 16 she said: I was not aware of giving any second power of attorney.

No. 17. In answer to interrogatory No. 17 she said: Yes, it was sent by mail to me in Louisiana to be signed, as they wrote that nothing could be done until it was executed.

No. 18. In answer to interrogatory No. 18 she said: I have not
68 the letter in my possession, nor do I know what has become of it.

No. 19. In answer to interrogatory No. 19 she said: I read it over myself, but do not think it was explained to me by any one.

No. 20. In answer to interrogatory No. 20 she said: I had no experience in business matters, and did not know how it would effect the rights of myself and children.

No. 21. In answer to interrogatory No. 21 she said: I expected to recover about ($150,000) one hundred & fifty thousand dollars, but taking out the burnt property reduced my expectation to ($120,000) one hundred & twenty thousand dollars.

No. 22. In answer to interrogatory No. 22 she said: Yes; he told me that he had examined the papers, and that it was one of the best claims he had seen; and when in Washington he assured me that I would likely recover ($80,000 to $90,000) eighty to ninety thousand dollars, and after the evidence was taken was stronger in his assurances, and Mr. Wood (then his partner, I believe) stated to myself and others
69 that I would not recover less than that amount; and Mr. Taylor also so stated in one of his letters to me after I came to Canada.

No. 23. In answer to interrogatory No. 23 she said: Yes; Taylor & Wood told me that they found all the papers to their hands properly filed, and they would have no trouble, but just to go ahead.

No. 24. In answer to interrogatory No. 24 she said: Do not know definitely what services they rendered in the case. They brought on four (4) witnesses that I know of, but I gave them names of many more, and wanted them brought on, but they told me that these would be sufficient, but promised if they found it necessary would bring on more. Do not know how many depositions, if any, they took.

No. 25. In answer to interrogatory No. 25 she said: I was in Washington City, and only endorsed the draft under protest, as both myself and children were in most embarrassed circumstances—without funds and very much pressed for them, and was forced to do so, as I could not
70 do better, and could not afford to wait, fearing that he would give it all in his hands and keep me out of it, and then my condition would have been worse than ever.

No. 26. In answer to interrogatory No. 26 she said: Yes; I had him served with a protest, and revoked my powers of attorney, and sent to both him and the Secretary of the Treasury; also appealed in person to the Secretary of the Treasury, who advised the course I am now pursuing, not that he did not recognize the justice of my appeal, but did not like to establish a precedent of this nature, having just revised an order of his predecessor bearing on cases of this character.

No. 27. In answer to interrogatory No. 27 she said: I have no other means than this whatever.

No. 28. In answer to interrogatory No. 28 she said: In Canad' for about four (4) years for the purpose of educating my children and living cheaper.

71 No. 29. In answer to interrogatory No. 29 she said: Yes; I intend to return as soon as I can, and have the means, as I am only living here now for the economy of education and living.

No. 30. In answer to interrogatory No. 30 she said: Most pitiable, be-

ing in Washington myself, living on the indulgence and charity of friends, while my children were in the same condition in Canada, and might have been put out on the street but for the generosity of a few kind hearts.

No. 31. In answer to interrogatory No. 31 she said: Yes; I desire to say that I not only had to endure hardships and humiliations on account of myself and family, owing to the delays and Mr. Taylor's not keeping his promises of assist*ance* me pecuniarily until such time as my claim was adjusted, but am to-day under a verdict judgement in the courts here for about ($400) four hundred dollars in gold for clothing, etc., procured by his ward, whom he (Taylor) induced me to take under my charge, saying he knew of no one whom he would prefer to myself to do so, and
72 told me that he had considerable funds of hers, etc. I felt considerable reluctance in taking this responsibility in the troubled state of my own affairs, and having my own family to look after, but thinking perhaps he would take a greater interest in me and my affairs, and fulfill his promises more faithfully, I complied. She joined me in Canada in the summer, and in the fall, as her wardrobe was entirely unsuited for this climate, asked to accompany me when I went to get what was necessary for myself and children, she at the same time ordering what she required. I never dreamed Mr. Taylor would dispute a bill of his ward's, but he has repudiated it, and allowed me in my impoverished condition to be held responsible for it. Both Mr. Taylor and his ward were fully aware that it was as much as I could do to keep myself and little ones in actual necessaries. He has been very remiss in his communications, giving me little or no information in regard to the progress of my case; in fact the principal contents of his latter correspondence were to the effect that he could and would not respond favorably to my repeated appeals for assist-
73 ance, which he had promised to do. More than this, I had to expend some twelve to thirteen hundred dollars ($1,200 to $1,300) in expenses in hotels, etc., in Washington and New York, as he said that it was necessary for me to be there, but for no benefit that I knew of, keeping me in Washington, after the evidence was taken, over two months, and then sending me to New York, and detained me there about three months, under heavy expenses at both places, and I was forced to sacrifice my silver and valuables to pay these and my children's expenses, and thus causing me to be in more streightened circumstances than I otherwise would have been. Then, adding to this the duplicity of getting papers from me under promises and for the purpose of assisting me, and not fulfilling these promises, and using such papers to my disadvantage, and can now readily understand that I have been a too-confiding dupe in the hands of heartless and unscrup*u*ous men, who, taking advantage of my ignorance in these matters and pressing necessities, made use of them for their own aggrandizement, whilst me and my little ones are left to suffer.

LAURA J. WILLIS.

74 I, Henry R. Myers, consul of the United States at Hamilton, Canada, and commissioner in the above-entitled cause, do certify that I have on this the 20th day of September, 1877, read over to the witness, Laura J. Willis (otherwise Laura J. Bemiss), the aforegoing answers to interrogatories from number one to number thirty-one, inclusive, and after hearing the same read she declared them to be her true answers,

and signed the same in my presence; and I do further certify that the above signature is in her own handwriting.

[SEAL.] H. RAY MYERS,
Commissioner.

75 In the supreme court of the District of Columbia.

BELLE BEMISS ET AL., BY THEIR NEXT FRIEND, Henry H. Dudley,
vs.
GEORGE TAYLOR AND LAURA J. BEMISS.
Equity. No. 5316. Docket 16.

On this the nineteenth day of September, 1877, at ten o'clock a. m., at the consulate, appeared before me, Henry R. Myers, consul of the United States at Hamilton, Canada, and commissioner in the above-named cause, acting under the direction of the supreme court of the District of Columbia, the witness in the above-named cause, Laura J. Willis (otherwise Laura J. Bemiss), and made answer to the cross-interrogatories from number eight to number twenty-six, inclusive, as follows, to wit:

No. 8. In answer to cross-interrogatory No. 8 she said: The plantation belonged to my husband, and the products, etc., were all raised after *own* marriage.

76 No. 11. In answer to cross-interrogatory No. 11 she said: As before stated, did not engage Barnitz, but he may have been employed by my lawyers (Fonte & Bradford, of New Orleans), and never had any communication with him that I know of. No; all my transactions were done through my lawyers in New Orleans.

No. 11. In answer to cross-interrogatory No. 11, 2d part, *2d part*, she said: I do not know what he did in the case except that my lawyers (Bradford) in New Orleans assured me that everything, all papers, evidence, testimony, etc., which I had collected in the case were all filed, and only awaited taking the witnesses on; and Mr. Taylor also informed me that he had found everything in order to his hands.

No. 12. In answer to cross-interrogatory No. 12 she said: The recommendation was volunteered; do not think he gave me a letter of introduction. He may have written or communicated with Mr. Taylor himself. He (Major Rawle) told me what Taylor would demand for his services.

77 No. 14. In answer to cross-interrogatory No. 14 she said: Yes; Major Rawle, when recommending Taylor, told me that it would take one-half to recover the other. Yes, I believe I did offer, thinking one-half of so large an amount better than waiting; I have not the letter in my possession; it may be lost or distroyed, or misplaced in Louisiana; I believe on' or two letters passed prior, but have not got them.

No. 19. In answer to cross-interrogatory No. 19 she said: The contract was sent to me by mail by Taylor, filled out ready to sign; I was satisfied at the time; I may have spoken of it in course of conversation of it; I answered all Judge Aldis' questions in reference to the fee and he remarked that it was an outrage to have to pay such an amount, but as I had no other alternative, and believing I would get eighty to ninety thousand, was quite willing under the circumstances. Yes, I have.

No. 20. In answer to cross-interrogatory No. 20 she said: I recollect receiving several letters from Col. Claiborne, of Louisiana,
78 but have no recollection of them as containing such as you state; if so, I was not aware of it. All communications in reference to my claims were handed over to Taylor and Wood. Do not think I ever had any conversation in reference to the rights of myself and children with Col. Claiborne; may have latterly with my counsel and one or two others in Washington; I am not aware that I ever expressed my understanding that I was only to get (30 %) thirty per cent. of the award for myself and my children; I never contracted to pay (20 %) twenty per cent. to any one; never saw Judge Ray or had any communication with him whatever, and never knew of him, except mention made of him by my attorneys; I did sign a contract with Waterman for (10 %) ten per cent. when informed that Taylor was doing nothing in my case, and that he (Waterman) had information and could up and bring forward all the further evidence required, and that he (Taylor) in connection with my brother-in-law in New Orleans, had it afterwards withdrawn and had given him (Waterman) one in place of it and taken it into his hands,
79 and that he (Taylor) would pay (5 %) five per cent. of it, and would expect me to pay the other five per cent. (5 %), thereby only voluntarily relieving me of five per cent. (5 %). Do not know whether he has paid it or not.

No. 21. In answer to cross-interrogatory No. 21 she said: On the justice of it and the offer of the United States Government to pay for such stores, and also on Mr. Taylor's telling me that (on looking over the papers) it was one of the best claims he had seen.

No. 22. In answer to cross-interrogatory No. 22 she said: Yes; both orally and by letter. He first assured me, when he had seen the papers that were filed, that it was one of the best cases he had seen; afterwards when I came to Washington, both he, Taylor and Wood, assured me and in the presence of others stated, I would not get less than eighty to ninety thousand dollars; also repeated the assurance in a letter to me in Canada, stating eighty thousand. The first was before I signed the contract, the latter afterwards. The letters (as stated before) were mostly sent *sent* to Louisiana, or destroyed or lost in travelling about. He did not tell
80 me it was to be cut down to thirty thousand until about the time he sent me a copy of the printed report of the commissioners. Yes; he told me that no provision as yet had been made for burnt property, but with the exception of this item he believed that I would get every dollar of the balance. No, he did not tell me in his first conversation on the subject that it would be greatly reduced, but assured me that if there was a reduction on some articles it would be fully made up by the advance they would allow on some others.

No. 23. In answer to cross-interrogatory No. 23 she said: Through my lawyers in New Orleans, also from Taylor himself, he stating that the papers were far advanced and ready to their hands.

No. 24. In answer to cross-interrogatory No. 24 she said: Taylor and Wood told me that all the papers were filed and prepared to their hands, thus making their labor less and the case easier of prosecution.
81 Was personally present at the taking of *taking of* the evidence of the witnesses, etc., and was informed that little else was done in the case.

No. 24. In answer to cross-interrogatory No. 24, 2d part, 2*d part*, she said: The only testimony taken that I know of was collected by myself before they took charge of the case, and I know of no other, except when present at the taking of the testimony of myself and witnesses. Do not know what time was spent in interviews with the commissioners or in arguing the case, but cannot see what necessity there was for any amount of time to have been expended in that way when my attorney repeatedly assured me that the case was so clear. I only heard it intimated latterly that some malicious attempts were made, but am ignorant of their nature. I know nothing of the letters referred to as being sent to the commissioner and do not see, in any case, what my private letters have to do with this suit, or how in any way effect the justice of the claim of myself and
82 children. I only heard after it (the bill) had passed the Lower House of Congress that attempts were made, but know nothing definite of them, but was informed through friends and members of the Committee on Claims in the House of Representatives that owing to the unenviable estimate in which Mr. Taylor was held by the Committee of the House on Claims that it was likely to be referred back with other cases that he was representing, and in this was I was likely to suffer for the bad repute of my attorney, and had it not been for the interest taken on my behalf by friend, they knowing my destitute circumstances, and an appeal made to the committee to investigate it on its own merits, it would have been returned to the commissioners, and in that case do not know what would have become of us if we had had to wait another year, and that any time or attention of his (Taylor's) would have been uselessly expended. I do not think I had any information of these difficulties until afterwards, and do not think I had a letter from Mr. Taylor for five or six months
83 prior in reference to any affairs, and that I wrote expressing much dissatisfaction and my disapproval of his conduct in the case.

No. 24. In answer to cross-interrogatory 24, 3d part, 3*d part*, she said: No. They were to pay all expenses, bring on witnesses, etc.; otherwise why have given them the case. As before stated I never, to my knowledge, saw John Ray or held any communication with him or entered into any contract or agreement with him whatever. No; they were from the first to defray all expenses in the case. Do not know whether they paid this or not. I have never been called on for such payment. Yes; I did enter into such contract with Waterman, owing to information received that my attorneys were neglecting the case, and was induced to do this rather than sacrifice my interest. When Mr. Taylor afterwards learned of it he wrote me about it and said that he had my contract withdrawn and taken it in his own hands. Do not know if he has paid it or not; never heard positively that I know of whether paid or not; never was called on for payment.

84 No. 25. In answer to cross-interrogatory No. 25 she said: No, as I was at one of the prominent hotels, and was always to be seen; walked and drove in the public thoroughfares; visited the Capitol, and attended the proceedings of either House of Congress (where considerable knowledge of my own affairs was gleaned); visited also the places of prominent resort; did not inform them of my arrival, nor did I endeavor to conceal it. My object was only to see what was going on, and make an effort to protect my own and children's interest, and after coming into

possession of certain facts concerning them (Taylor & Wood), did try to prevent the money passing into their hands, thinking he had not done what was right by me and mine, but if I had been successful, would have done what was right and honest with him and paid him what was fair for his services.

No. 26. In answer to cross-interrogatory No. 26 she said: The prominent officials of the Treasury Department and others conversant
85 with the facts of the case. Have no agreement with any one about advancing any fees in this suit, or sharing in the amount recovered.

LAURA J. WILLIS.

I, Henry R. Myers, consul of the United States at Hamilton, Canada, and commissioner in the above-entitled cause, do hereby certify that I have on this the 20th day of September, 1877, read over to the witness, Laura J. Willis (otherwise Laura J. Bemiss), the aforegoing answer to cross-interrogatories from number eight to number twenty-six, inclusive, and after hearing the same read, she declared them to be her true answers, and signed the same in my presence. And I do further certify that the above signature is in her own handwriting.

[SEAL.] H. RAY MYERS,
Commissioner.

86 *Complainants' testimony.—Filed Feb'y* 22, 1878.

87 In the supreme court of the District of Columbia.

BELLE BEMISS ET AL. }
v. } Equity. No. 5316.
GEORGE TAYLOR ET AL. }

At examinations held in this cause before me, personally appeared on the days within mentioned the within-named witnesses on call of the plaintiffs, who being first sworn, the within depositions were written down from the statements of the witnesses, read by them, and signed by them.

FRANK T. BROWNING,
Ex'r in Chancery.

88 In the supreme court of the District of Columbia.

BELLE BEMISS ET AL. }
v. } Equity. No. 5316.
GEORGE TAYLOR ET AL. }

SIR: Please take notice that on Saturday, the 15th day of December, 1877, at one o'clock in the afternoon of that day, I shall proceed to take testimony in behalf of the complainant in this cause at the office of Frank T. Browning, Columbian College Law Building, and that I shall continue

from day to day to take such testimony until the same shall be concluded.

Yours, very truly,

ENOCH TOTTEN,
Att'y for Compl't.

To W. S. Cox, Esq., *Att'y for Def'ts.*

Service acknowledged Dec. 11th, 1877.

WALTER S. COX.
By GEO. A. HYDE.

89 In the supreme court of the District of Columbia.

BELLE BEMISS ET AL. }
v. } Equity. No. 5.
GEORGE TAYLOR ET AL. }

WASHINGTON, D. C., *December 15th*, 1877.

Met pursuant to notice hereto attached. Present: Enoch Totten, esq., solicitor for complainants; Walter S. Cox, esq., solicitor for defendants; the defendant George Taylor, and witnesses.

EUGENE CARUSI, being first duly sworn, on behalf of the complainants, deposes and says:

Examination by Mr. TOTTEN:

Q. Mr. Carusi, what is your full name?
A. Eugene Carusi.
Q. Where do you reside?
A. In the city of Washington.
Q. What is your occupation?
A. Lawyer.
Q. How long have you been practising law?
90 A. Eighteen or twenty years.
Q. All the time in the city of Washington?
A. Yes, sir.
Q. Did you ever collect any claims against the Government of the United States or have any business in connection with it?
A. Never.
Q. Have you ever made any collections against private persons in the city of Washington?
A. Frequently.
Q. What is a reasonable compensation for collecting a claim of $27,310 from the Government of the United States, through the Commissioners of Claims usually called the Southern Claims Commission?
A. As I am not acquainted with the procedure before that commission or the amount of labor involved in the collection of claims of that character, I could not say.
Q. Well, suppose the attorney prosecuting that claim examines half a dozen of witnesses before the commission, the petition having been previously filed by another counsel, and attends to the matter until after the report has been made by the commissioners, and watches it while it is pending before Congress, and then collects the money after the

91 appropriation has been made; in a claim of that kind for such services what would be a reasonable and fair compensation?

Mr. TAYLOR. I object to the question, because the witness says he is totally unacquainted with the business of prosecuting claims before that commission; that he never had one, and knows nothing of the value of those services.

A. To answer that question intelligently I would have, of course, to know what is implied in watching the case before Congress, and attending to it before the commission. There is no great labor in examining a dozen or half a dozen witnesses, nor in preparing any petition setting out the facts upon which the claim is based.

Mr. TOTTEN. You must assume, in answering this question, that the fees are contingent.

WITNESS. Well, I ask you what is understood by watching a claim before Congress?

Mr. TOTTEN. I cannot tell; nobody knows what that is; the supposition is that an appropriation bill goes through without any services from outside parties.

WITNESS. Of course, if any influence is used in securing the
92 passage of a claim, it would be a matter I could not estimate in money, because I know nothing about it.

Mr. TOTTEN. I do not allude to the question of influence.

WITNESS (continuing). But unless some extraordinary labor is necessary in the prosecution of a claim of that sort, over and above the amount of labor employed in a collection against a private person in the courts of law in a contested case, I should say ten per cent. would be a very liberal compensation.

Q. Supposing that these services rendered in this case consisted substantially in what I have stated in my inquiry, would ten per cent. be a reasonable and fair compensation?

(Objected to by Mr. Taylor.)

A. I should suppose, sir, from ten to fifteen per cent. would be a reasonable compensation in the absence of any extraordinary trouble; but my testimony is necessarily very unreliable, from the fact that I am unexperienced in business of that sort.

Q. What would it be worth to collect a claim of that kind—I
93 mean a claim for that amount against a corporation or private individual, in our courts of justice?

A. Short of the Supreme Court of the United States, I would charge not over five per cent.

Q. Suppose a controversy had existed in regard to the matter, and you had litigation to go through with, how much would you charge?

A. Well, I should not charge over ten per cent.

Q. In a large claim of this kind?

A. Yes, $27,000; I conform my charges, as nearly as may be, to the schedule of fees adopted by the bar association of this city, which is, five per cent, I believe, on sums over and above $5,000. That schedule, I may say, as I understand it, does not contemplate contingent fees.

Q. (Complainants' counsel here shows to the witness a schedule of minimum fees adopted by the bar association, and asks him if he recognizes that as the schedule of fees alluded to by him.)

A. Yes; that is it.

(Counsel for defendants admits that the schedule shows the scale
94 of fees adopted by the bar association as minimum fees; the same is offered in evidence, marked "Exhibit E. C. No. 1," and filed herewith.)

Q. Where the entire estate of a dead man, belonging to his widow and three little children, was the subject-matter of the claim, would you make any discrimination in regard to your charges, either for or against them?

A. Unquestionably, I would.

Q. Which way would you discriminate?

A. Certainly not against them. I think that would be a case where "the wind should be tempered to the shorn lamb."

Q. Do you know of any reason why contingent fees for collecting claims against the Government of the United States, should range higher than contingent fees against private individuals through our courts?

A. Of course, I shall have to say no, not being familiar with the collection of claims against the Government.

Cross-examination by Mr. COX:

Q. Have you had any practise before the Southern Claims Commission?

A. No, sir.

95 Q. Do you know what are the usual charges of counsel for prosecuting claims before that commission?

A. No, sir; I do not.

Q. Do the facts stated by Mr. Totten as to labor give you any idea of the labor involved in prosecuting any such claim?

A. No, sir.

EUGENE CARUSI.

JOHN J. JOHNSON, being first duly sworn on behalf of the complainants, deposes and says:

Examination by Mr. TOTTEN:

Q. What is your business?

A. I am a practising attorney, and a member of the bar of this District.

Q. How long have you been practising law?

A. Fourteen years next March.

Q. Have you ever collected or endeavored to collect claims against the United States?

A. Never. I have had some claims offered to me, but I never would engage in that branch of the profession.

Q. What, in your judgment, is a reasonable compensation for
96 collecting a claim against the United States amounting to $27,310.00, which is the entire estate left by a dead man to his widow and three little children?

A. That would depend altogether on the trouble.

Q. Assuming that it was a case of very extraordinary trouble, what would be the extreme maximum fee?

A. In a case of that magnitude, that amount being involved, I should think twenty per cent. the utmost; in fact fifteen per cent. would be a splendid fee; so I should regard it.

Q. You keep in mind that the fee is contingent?

A. Undoubtedly.

Q. How much would you be willing to engage to collect such a claim for?

A. Well, I would take a case such as you mention, file the petition in the Southern Claims Commission, and attend to the taking of testimony (providing the witnesses were brought here) for, I think, about twelve per cent.

Q. Do you think that would be a fair compensation?

A. I should think it would pay a man handsomely.

97 Q. And take your chances on success?

A. Yes, sir; on success, contingent purely; and that is more than I realize out of collection cases.

Q. Suppose that in such a case no contract was made, and that the amount of the claim paid was $27,310, and that the service rendered by you was the examination of half a dozen or about a half dozen witnesses before the commission, no verbal or written arguments were presented to the commission; what would be a reasonable compensation under those circumstances?

A. I would charge ten per cent., and fifty dollars for filing the petition and attending to whatever pleading might be required before the commission, in addition to the ten per cent.

Q. Do you know of any reason why the scale of fees for collections against the United States should differ from collections against private individuals, where the fees are contingent upon success or upon collection?

A. I know of no reason; I should prefer a case against the

98 United States than against the individual, because if you get a judgment against the United States your money is sure, whereas if you get a judgment against the individual, his property may be beyond execution or beyond your reach.

Q. Look at Exhibit E. C. No. 1 (handing the same to witness), and see if that is the schedule of minimum fees adopted by the bar association?

A. (After examination.) It is.

Q. Does that show the fees usually charged by members of the bar here for collections.

A. That is regarded as the minimum.

Q. It is usually considered as the starting point for the assessment of fees?

A. Undoubtedly; I know of a number of cases where persons were charged less than that.

Q. It is a rare thing for members of the bar to charge in collections above $5,000.00 more than five per cent?

A. They charge generally ten per cent. for an amount under $5,000.00 and above that, about five per cent., at least that has been my practise and the practise of others that I have talked with upon the subject; I cannot say whether or not it is universal.

99 Q. In your opinion, as expressed in regard to the maximum fee to be charged in a case of the kind in question, in which we are now engaged, you estimate your fee upon all the services that may be necessary?

A. Yes, sir; undoubtedly, from the beginning of the suit to its final termination.

Cross-examination by Mr. COX:

Q. Have you had any practise before the Southern Claims Commission?

A. No, sir.

Q. Do you know anything about the general rate of compensation received by counsel for practise in the Southern Claims Commission?

A. No, sir; I only know this, it does not require (as far as my observation has gone) a man of any more ability to try a case before those tribunals than it does in court.

Q. Suppose a person in Louisiana voluntarily to offer you thirty per cent. for recovery of a claim?

A. Most indubitably I should take it.

100 By Mr. TAYLOR:

Q. Suppose a case in Louisiana was offered to you, and it became necessary for you, and others associated with you, to advance all expenses of bringing witnesses from Louisiana to Washington, and paying their expenses, and their time, and return, and all other expenses incidental to the case, involving a considerable amount of money, and this all depending upon your success in the case, would the compensation that you speak of now be a fair compensation for such services?

A. It would not. In the first place, I would not engage in a case upon contingencies of that kind. I never will, where I have to pay any portion of the expenses of my clients; if they do not stipulate to pay the expenses, then they will have to get somebody else.

Q. Suppose a client in Louisiana were to offer you a claim against the United States for unliquidated damages, you knowing nothing about the client or about the case further than what the client might communicate to you, and then the client voluntarily offered to pay you fifty

101 per cent. for the prosecution of the claim, and after that you discovered that the client was totally unable to bring up the witnesses from Louisiana, or pay any expenses in the case, and arrangements were made with her associates to pay all expenses and get the services in Louisiana required for hunting up the witnesses, for which these assistants were to receive twenty per cent., do you think, under such circumstances, where a party voluntarily offered to pay fifty per cent., and the attorney then, of his own will and motion, assumed to pay the twenty per cent. that she had contracted to pay others, leaving thirty per cent. for himself, do you think it would be a liberal, or unfair, treatment of the client?

A. If the inquiry is intended to mean that the soliciter shall pay all the expenses attending the prosecution of that case from its inception to its conclusion, I would not have anything to do with the case; but if an attorney chooses to adopt that line of practise, I certainly see no impropriety in accepting fifty per cent. or seventy-five per cent., just as the party chooses to give him.

102 Q. But the latter part of the question would go to this point: If the client voluntarily offered to pay the fifty per cent. for his services, and a contract has been made for that amount, and the attorney afterward discovered that the client could not pay the expenses of the prosecution, could not pay the expenses of the witnesses and bring them here, and could not secure the services of other attorneys in Louisiana to hunt up the witnesses and send them here, and that she made a contract with other

parties to do this at the rate of twenty per cent., ten per cent. each, which the attorney at his own motion assumed to pay, and did pay out of his own fifty per cent., would you consider that a liberal practise, or unfair?

A. In the first place, if a client should come to me and offer me fifty per cent. as a contingent fee for the prosecution, voluntarily offered this contingent fee for the prosecution of a certain suit to its ultimate result, and before reaching the conclusion of the case it was ascertained that she was unable to furnish fees and witnesses, or the incidental expenses,
103 I should abrogate the contract and consider it null between the client and myself, and she would have the privilege of making a new contract with whomsoever she pleased; but if she employed other counsel to assist me, the other counsel should have to look to her for their pay; I should still hold the rate and take the fifty per cent. under the contract.

Q. Suppose the question was submitted to you whether you would allow this client to pay this twenty per cent. to the other attorneys, or whether, receiving one-half the claim, it would not be kind or considerate on your part to assume the twenty per cent. and pay it, although no obligation on your part to do it?

A. I would have nothing to do with it.

Q. I ask your opinion.

A. If I chose to allow the twenty per cent. it would be a matter of gratuity, and nothing else.

Q. And matter of kindness?

A. Yes, sir.

Q. Now suppose, Mr. Johnson, that a client should present herself to you by letter from Louisiana stating her case, and asked you to as-
104 sume the care of it, and voluntarily offered to pay you fifty per cent. for your services, and executed a contract for that amount, and upon the examination of your client, and a full and free conference with her in Washington, you should learn that she had no means whatever to defray the expenses of the case, nor any means to pay even her personal expenses at the hotel or to support her children, would it not then appeal to your kindness, rather than your ideas of professional etiquette, to allow her to make these other arrangements to effect the objects she sought, and to pay the expenses of these other parties out of your fees?

A. No, sir. I should do this: I would say to this client, after entering upon this case, It has been developed that you are unable to furnish means to conduct your case. You are at liberty to rescind this contract with me, or make arrangements with somebody to borrow money to pay these expenses, and my fees on the contract shall be reduced; under the circumstances I could not charge you fifty per cent., you having to
105 raise money to carry on this suit, but I cannot enter into any arrangements to enable you to do so.

Q. But if you found that unless you did aid this client she would be totally defeated in the collection of her claim, and that she and her orphan children would be sacrificed to that extent, would it not be an act of kindness to continue to aid her in the prosecution to secure the success of her claim, and pay these expenses?

A. It might be an act of kindness, but I would not do it.

Redirect by Mr. TOTTEN:

Q. If the estate of a dead man were entirely in the hold of a corporation or of the United States, and the widow should come to you to collect it, do you think of any possible contingency or any amount of labor that would justify you in accepting a fee of fifty per centum out of the amount of that estate, especially where three little children have their interests involved, the claim being entirely for unliquidated damages?

106 A. Well, throwing out of view the widow and the orphans, I must say that I would not make a contract for fifty per cent., under any circumstances, for fees, but in saying that I do not mean to say that I would not accept one if voluntarily made, but to the question put to me as to what my fees would be, I say I would not place them anywhere near that amount.

Q. Mr. COX. Suppose you knew nothing about the children, and you were written to from Louisiana to take the case for fifty per cent., would you refuse?

A. Certainly not. If they came to me and stated the case fully and asked what my fees would be, it would come under the rule I have stated.

Q. Mr. TOTTEN. If an attorney, in the progress of a case, advances money to his client, who is poor, is it legitimate for him to swell his fee on that account? Would it be legitimate to charge fees in lieu of the money and interest, and the risk of getting it back?

A. That is a question of propriety alone. I would not, in the first place, engage in the case under those circumstances.

107 Q. Suppose you did advance money; men have to do that sometimes—lend their clients money.

A. Then I think the amount advanced and interest upon it would be all that was required.

Recross by Mr. TAYLOR:

Q. That question suggests another. Suppose in the prosecution of a case you found it necessary to protect the client and her children from starvation and being turned out of doors, and on the earnest appeals of the client you advanced money from time to time, enough to keep them from starvation, and you charged the legal per cent. and interest on that amount and deducted it out of the claim when collected; would you consider that professionally legitimate?

A. No, sir; I do not consider that professional. I do not think an attorney has any right to advance his clients money pending a litigation when his fees are contingent. I do not think an attorney is called

108 upon in any capacity whatever to furnish means for his client to prosecute or advocate a suit.

Q. But suppose he does; would it be unprofessional to receive back the money with interest on it?

A. Oh, no, sir.

JOHN J. JOHNSON.

WILLIAM B. WEBB, being first duly sworn, on behalf of the complainants, deposes and says:

Examination by Mr. TOTTEN:

Q. What is your name, Mr. Witness?

A. William B. Webb.

Q. How long have you been practising law in the city of Washington?

A. Upwards of twenty years.

Q. Have you ever collected claims against the Government of the United States, or engaged in that business?

A. I have collected claims against the United States, but I cannot say I have been engaged in that business.

109 Q. Well, you have collected claims against the United States, have you not?

A. Well, not frequently, but I have collected some through the Departments and some through the Court of Claims.

Q. Some through Congress?

A. Some through Congress, yes.

Q. Were your fees when you collected claims against the Government contingent?

A. In some cases they were; in others I have required to be paid before I did anything in the case.

Q. What would be a reasonable compensation for collecting a claim amounting to $27,310.00 from the United States for property appropriated by the Army of the United States, where the claim belonged to a widow and three little children, assuming, as part of the question, that the claim involved an extraordinary amount of labor; what would be the maximum fee, in your judgment, as a reasonable compensation under such circumstances?

A. If it were a case involving only the ordinary labors attendant upon claims against the Government, as far as my experience goes, a fee
110 of twenty per cent. would be what I should reasonably expect to get.

Q. Would that fee, in your judgment, be a reasonable compensation for all the labor in the case from the beginning thereof to the end?

A. I think so; that is what I have gotten in some cases myself, and I thought I was very fairly compensated. The question before the last asks me what would be the fee in the event that the case involved extraordinary services. If I knew that such extraordinary services were to be required of me I should regulate my fee accordingly.

Mr. TOTTEN. I mean professional labor.

A. Well, professional labor, I should regulate my fee accordingly.

Q. Suppose the services involved in the case consisted in filing the petition, in hunting up six or eight witnesses, sending them up here from New Orleans, and examining them orally before the commissioners of claims (commonly called the Souther' Claims Commission), and then the services of watching the progress of the claim afterward, no argu-
111 ment being made before the commission, either verbal or written, and the amount recovered was $27,310.00; what would be a fair compensation to charge this widow and her three orphan children for the whole service from the beginning to the end—from the beginning from filing the petition to the end when the money was received and handled by the attorney?

A. I should say from ten to twenty per cent.

Q. What would be a reasonable and fair compensation? Fix it as nearly as you can.

A. I should want to fix the contingent compensation when I took the case. If I knew that the services required of me were to be as detailed by you, I should think that ten per cent. would be a fair compensation on the amount mentioned.

Q. Is $27,310.00 a rather "fat" sort of a claim, in your judgment?

A. Yes; it is.

Q. Can you think of any state of circumstances, any amount of labor involved that would justify a respectable lawyer in charging the

112 estate of a dead man fifty per cent. for collecting that claim?

A. No; I cannot think of any circumstances just now.

Q. Do you know of any reason why contingent fees for collecting claims against the Government should range higher than the contingent fees for collecting claims in the ordinary prosecution of your business here at the bar against private persons or corporations?

A. No.

Q. Is it not easier as a matter of fact, and is it not considered easier, requiring a much less degree of learning and skill, to collect claims against the Government than to collect claims against private individuals or to manage controverted suits in courts of justice?

A. I think so.

Q. What is the usual scale of fees prevailing in this city for the collection of claims by the profession, outside of Government claims?

A. Those fees have been fixed by a resolution of the bar association here.

113 Q. Please tell me what percentage is usually charged, so far as you know.

A. Ten per cent. on all sums of and under $5,000.00, I think it is, and five per cent. if the amount exceeds that. I never take a collection case without being paid something.

Q. For the costs?

A. Yes, sir.

Q. Is the scale of fees mentioned in this schedule (handing witness Exhibit E C, No. 1) usually observed in the District as the minimum standard for collection cases?

A. (After examination.) As far as I know, it is; I know very little about anybody else's business except my own though.

Cross-examination by Mr. Cox:

Q. Have you ever practised before the Southern Claims Commission?

A. I never did.

Q. What is the extent of your practise before the Court of Claims?

A. Not large; I had a good many cases there some years ago, but I have none of any account now.

114 Q. Have you any personal knowledge of the rate of contingent commissions ordinarily charged?

A. No.

Q. Suppose a case was sent to you by a stranger from Louisiana—a claim against the United States for unliquidated damages—with the voluntary offer of fifty per cent., you being expected to defray all the costs of collecting proof, would that be unreasonable if you accepted it?

A. I should hate to accept it under those conditions, and I do not know what would be a fair compensation for a case of that sort. I would hate

to accept it, not because I do not think a lawyer has a right to take fifty per cent., but because I would not take a case in which I was expected to pay expenses.

Q. Does the fact of the claimant being a widow and having several children make any difference as to your right of professional charges as a matter of right?

A. As a matter of right, no; but it would have its effect upon
115 me, and always has had an effect upon me, so far as my practise goes.

Q. Your estimate of the proper commission to be charged is based principally upon your practise in the regular courts?

A. Yes, sir.

By Mr. TAYLOR:

Q. Suppose a case commenced before the Southern Claims Commission requiring almost constant and uninterrupted attention and labor for between four and five years, hunting up witnesses in Louisiana, examining them to ascertain their knowledge of the case, sending them up to Washington, conducting the case here, after the award is made by the Southern Claims Commission following it into a committee room in Congress, securing the proper attention to the case in the committee, that it may be reported and an appropriation made—a case requiring unusual care and labor and attention—would you consider thirty per cent. too large a percentage as a contingent fee in that case?

A. I would not.

116 Q. If a client from Louisiana were to voluntarily write to you (first seeking a note of introduction), stating that she had a large claim before the Southern Claims Commission, and she desired to employ you in the case, and, as her attorneys had utterly failed to protect her interests or do anything for her, she was willing to give you fifty per cent. upon the claim recovered, and executed a contract to that amount, and you afterwards ascertained that she was totally unable to conduct a suit or claim, and you refused positively to advance the money or to have anything to do with the advancing of money to pay for the witnesses and other expenses in the case, and your client then proceeded, with your consent, to employ others to hunt the witnesses up, and defray the expense of bringing them to Washington and their return, and their expenses here, for which services she agreed to pay two different parties twenty per cent., ten per cent. each; the last ten per cent. made on an independent contract
117 without your knowledge, consent, or approbation, and the case should then proceed, and as a matter of charity, you should conduct the case, and then pay the twenty per cent. (which she had voluntarily agreed to pay herself) out of the fifty per cent. which she had agreed to pay you, retaining for these extraordinary services, continuing from between four and five years, and requiring uninterrupted attention, would you not consider an attorney thus voluntarily offered a fee of fifty per cent., who should retain but thirty per cent. out of the fifty as dealing liberally and honorably with his client?

A. I should; I do not know anything about such contracts.

Q. I understand you to say that you have had no practise before the Southern Claims Commission?

A. I have not.

Q. And that you have not been engaged in the prosecution of claims against the United States to any considerable extent?

A. No, sir.

Q. You do not make it your business?

A. No, sir.

118 Q. You are not familiar with the charges of attorneys engaged in that business?

A. No, sir.

W. B. WEBB.

Adjourned to meet on Monday, December 17, 1877, at three o'clock p. m.

119 WASHINGTON, D. C., *December 17th*, 1877.

Met pursuant to adjournment.

Present: Mr. Totten, solicitor for complainants; Mr. Cox, solicitor for defendants, and witnesses.

THOMAS C. FULLERTON, produced and sworn on behalf of the complainants, deposes as follows:

Examination by Mr. TOTTEN:

Q. Mr. Fullerton, what is your name and what is your occupation?

A. Thomas C. Fullerton; attorney at law.

Q. How long have you been practising law in the city of Washington?

A. Ever since the winter of 1870–'71.

Q. Have you ever had any practice or experience in the business of collecting claims against the United States through the Southern Claims Commission and other Departments of the Government?

A. I have.

Q. How much experience have you had in this Claims Commission—before the Commissioner of Claims—called the Southern Claims Commission?

120 A. I have been devoting my whole time to the practise in that commission since its organization up to about two years. Within the past two years I have given some attention to business in the District courts.

Q. Tell, if you please, what the modus operandi of conducting business is in that commission. Do they write down the depositions and file them?

A. Ordinarily there are two sets of attorneys; one here and one in the States. The petition is presented through the attorney in Washington; testimony is taken by special commissioners in the States and superintended by the attorneys there. That testimony is transmitted to the commission and held by them. The Washington attorney then examines that testimony in the rooms of the commission; not permitted to take it away from there; briefs it or not, as he chooses, and keeps the case in hand until he is ready to submit it for decision, and then it is submitted. Everything is in writing. That is my practise.

Q. The commission are not in the habit of hearing oral arguments?

121 A. No, sir; at least I have never heard of such a case; I have never done it in my practise.

Q. What is the rate of charges prevailing amongst reputable attorneys for doing business through that commission?

A. I think the prevailing rate is twenty-five per cent.; that is so in nine cases out of ten.

Q. Are those small cases—cases involving small sums or large ones?

A. In my practise—and I only speak of my own practise—cases ranging all the way from $150.00 to $5,000.00.

Q. In those cases the rule is usually 25 per centum?

A. In nine cases out of ten 25 per centum. Small sums have a larger per centum, and some large cases have a smaller, but where the percentage is above or below 25 per cent. it is in accordance with an agreement or understanding.

Q. Is that commission (or percentage) divided between the attorney here and the representative attorney in the States?

A. It is, in my practise, equally divided. I understand that to be the general practise.

122 Q. You have practised in our courts of law and equity in this District considerably within the last two years, have you not?

A. Yes, sir; I have had some practise, not a great deal, for the reason that in 1870–'71, when I commenced, up to 1875, I declined practising in the District courts, because I was wholly engaged in the Claims Commission.

Q. How is the labor in our local courts compared to that in the Southern Claims Commission?

A. I think the labor and practise before the Southern Claims Commission are much easier than in your equity and law courts in the District, for the reason that before the commission you have control of your own case entirely; take testimony whenever you feel like it; examine it when it is convenient; submit it when it is convenient; and the only inconvenience I ever found is being required to examine all papers at the rooms of the commission. You cannot carry it away to your office. When you are engaged in a case before the commission you have to sit there in the rooms either to copy or examine a paper. You are not required

123 to wait upon any one as you do in your law courts, and therefore lose no time on a case before the commission.

Q. The business before that commission does not necessarily interfere with the other duties of a lawyer?

A. Not at all.

Q. Does it require as much, less, or a greater degree of skill to manage a case in the Southern Claims Commission, compared with our local courts or any court of law or equity?

A. I think it requires less skill to manage a case before the Southern Claims Commission than before a court of law or equity.

Q. Suppose that you had a case in the Southern Claims Commission where you had no contract or understanding as to fees, and you collected the sum of $27,310.00, and the service which you rendered in the case, or which was rendered in the case, consisted in hunting up five or six witnesses, sending them up from New Orleans, and examining and cross-examining them here before the Southern Claims Commission, and

124 also in the cross-examination of one or two witnesses produced by the Government, here, before the Southern Claims Commission, no argument, either oral or written, being submitted to the commission, what would be a reasonable compensation for the collection of such a claim—for $27,310.00?

Mr. Cox. The fees being contingent?

Q. (Mr. Totten.) The fees being contingent; without success you get nothing—what would be a fair charge in such a case, in your judgment?

A. I should think twenty per cent. would be a good fee in that case. It is a larger judgment than ever I got, and I have no experience in charging in such large cases, but I think twenty per cent. would make a very reasonable fee for the labor you mention.

Q. Would ten per cent. be a reasonable compensation—ten per cent. on $27,310.00?

Witness. To be divided between local attorneys?

Mr. Totten. Yes, sir; to be divided between you and the local attorney.

A. No, I do not think that it would; that would only give us five per cent. apiece.

125 Q. What would you say about fifteen per cent.?

A. I think twenty per cent., to be divided between the local attorney and attorney here, would be a reasonable and fair compensation.

Q. In all the cases you have had and all you know anything about, there have been two sets of attorneys?

A. Yes, sir; I have had many cases before that commission, but in very few of them have I been alone; they usually have two sets of attorneys.

Q. Now, take this case that I have put to you, and suppose that the parties claiming the money consisted of a widow (and, mentally speaking, a very weak person at that) and three little girls, varying from six to fourteen years of age, would that make any difference in regard to your ideas of the reasonableness of the compensation or the charge which you probably would make? And suppose, further, that that $27,310.00 was all the estate that was left by the father of those children for their support and education and for the support of his widow——

126 A. No, those facts and circumstances would not make any difference with me. If I was personally acquainted with them, and they should make a personal appeal to me, I do not know what the effect would be.

Q. The labor in one case is just the same as it is in another?

A. Yes, sir.

Q. After the commissioners have made their report and allowed a case there is no further services required of the attorney, is there?

A. Sometimes there is.

Q. In a case where there is no objection raised to the claim?

A. No, sir; where there is no objection raised there is no further work for the attorney.

Q. And his services end with the action of the commission?

A. He simply has to sit back and see that he gets the draft.

127 Cross-examination by Mr. Cox:

Q. In this case the facts are that the complainant, an entire stranger to the defendants, wrote to them from Louisiana offering them fifty per cent. if they would recover her claim then pending in the court. The defendants knew nothing of the claim or of the proof, or of the parties, and they accepted the terms proposed. They afterwards allowed twenty per cent. to be paid to other parties for trouble and expense in col-

lecting witnesses and sending them to Washington, where they were examined several times. When the case was before Congress objections were made to it, and attorneys were employed in removing those objections, and a great deal of trouble is alleged by the attorneys to have been taken by them in order to secure the allowance of that claim. If all that be true, would you consider the charge of thirty per cent.—paying out of their own fifty per cent. the other twenty—to be a reasonable charge?

WITNESS. That is, thirty per cent. for Mr. Taylor?

Mr. COX. Taylor and his firm. In the first place, the complain-
128 ant, an entire stranger, agreed to pay him fifty per cent. if he would take the case, and he voluntarily paid twenty out of it for the expenses of other parties in the South to provide witnesses and send them on. With her consent the twenty per cent. was so applied.

A. I cannot very well answer that question, for I never have had any experience in advancing money for witnesses and other expenses. My experience has wholly been upon compensation for services, and in a case so large as this I still think twenty per cent. a reasonable compensation for services.

Q. In the absence of agreements?

A. Yes, sir.

Q. Under the circumstances in which it appears that the thirty per cent. is voluntarily proffered, is it unreasonable to take it? Would you consider it extortionate to take it?

A. I don't know that I can answer that question, Mr. Cox; that is a question for the attorneys themselves to consider.

Q. Is it not felt by those engaged in that business that there is
129 much more uncertainty about prosecuting claims from very remote parts of the United States, and depending upon evidence about which you can get no information than suits in our local courts? Is not that an element in the computation of fees?

A. Yes, sir; there are contingencies all around the case; there are at least half a dozen contingencies all taken into consideration.

Redirect by Mr. TOTTEN:

Q. It is a rare thing, is it not, to have a case as large as this one in the Southern Claims Commission?

A. Very rare, indeed; I am astonished that they should get that much.

Q. In making a contract with a client for contingent fees in a case of this kind all these troubles and contingencies are considered by all attorneys usually?

A. Yes, sir.

Q. There are a great many contingencies connected with the collection of Government claims, particularly from that locality, are there not?

A. Yes, sir.

Q. One contingency to be considered is the disposition of the
130 commission to decide against rich men?

A. I do not know that I can say the disposition of the commission to decide against rich men, but it is almost an utter impossibility to prove the loyalty of rich men from that locality. They are more or less connected with the rebellion. Or, if not, by reason of their wealth, they were under a state of surveillance in the South, and not able to act in the

behalf of the Government of the United States, and consequently not able to prove anything.

Q. If a case of this magnitude were presented to you to-day, or had been presented to you within the time, would you have been entirely willing to take the case for twenty per centum in reference to all possible contingencies?

A. No, sir; I would not take the case, in the first place, on a twenty per cent. agreement without knowing anything about it. I would have taken it on a twenty-five per cent. agreement.

Q. Do you consider the number of witnesses examined in this case, say six or eight, involving very much trouble?

A. No, sir.

Q. After witnesses have been brought to the city of Washing-
131 ton it is not great trouble to examine them, is it?

A. No, sir; it is not.

Q. In this case Mr. Taylor found the case already presented, the petition already prepared and filed with the commission. That would not make any material difference, in your judgment, would it?

A. None whatever; it is very little work to file a petition or prepare it.

Q. The truth about it is that the labor necessary to carry through a case in that commission is not very great. The reason why the contingent fees are made high is because you have so many cases to carry through out of which you get no compensation whatever?

A. That is one of the elements.

Q. And reputable lawyers rarely agree to furnish money to carry on these cases?

A. I have had a great many applications myself, which I have refused. I have never furnished a dollar.

Q. If in the conduct of a case you found that your client had not the necessary means to procure the testimony, and you should advance
132 $500, $600, or $800 for the purpose of aiding your client in procuring testimony, etc., would you consider that you were to have your rate of fees swelled, or would you be satisfied with the return of your money with a reasonable rate of interest?

A. That is a rather difficult question. I would not advance it, in the first place. I would not advance it for the reason that it is too uncertain.

Q. But if you did advance it all you would be authorized to expect, as a reasonable man, is the return of the money, with a reasonable interest for the use of it?

A. Yes, sir.

Q. It could not effect your fees by diminishing them or swelling them?

A. No, sir; if I did advance it, but I do not believe I would advance it; it is too risky.

Recross by Mr. COX:

Q. The larger the claim the greater the contingency?

A. Yes, sir; with the Southern Claims Commission.

Mr. TOTTEN. But the labor does not increase with the size of a
133 claim; it is as hard to get through a $100 claim as a $1,000 one, is it not?

A. Yes, sir.

THOS. C. FULLERTON.

134 NATHANIEL WILSON, being first duly sworn on behalf of the complainants, deposes as follows:

Examination by Mr. TOTTEN:

Q. What is your business?

A. My business is that of an attorney and counsellor at law.

Q. Have you had any experience in collecting claims against the United States? Have you ever been before the Southern Claims Commission?

A. I have.

Q. And the Court of Claims and the Departments?

A. The Court of Claims, and the Departments, and various other commissions.

Q. Does it require as much, less, or more professional learning and skill to prosecute a claim against the Government than it does to prosecute a claim in the courts of justice in this District and elsewhere—the ordinary courts of law or equity?

A. Well, I should not say that it did; there are exceptional cases.

135 Mr. TOTTEN. My question involves three, "much, less, or more."

A. I should not think it would require as much, taking the average of cases; there are some cases, of course, that require a great deal of professional skill.

Q. Do you know of any reason why contingent fees should range higher for business before the Departments or commission where the Government is the defendant than in the ordinary courts of law and equity?

A. Well, I do not, unless there is an added element in the case where the Government is a party. It sometimes happens that the attorney is to pay a portion of the expenses, and agrees to prosecute a case and pay the expenses for a certain sum.

Q. It is very unusual for attorneys to undertake to pay any portion of expense in Government cases?

A. Very, indeed, as far as I know.

Q. Suppose a case before the Southern Claims Commission, where the amount allowed and paid was $27,310.00; the labor performed by

136 the attorneys was to hunt up five or seven witnesses in the State of Louisiana, and send them up here, and examine them before the Southern Claims Commission, and to cross-examine one witness produced here, twice produced before the Southern Claims Commission, no argument being made to the commission, either oral or in writing, what would be a reasonable compensation for the collection of that claim in the absence of any stipulation or agreement?

A. I should think ten per cent. would be a fair commission or per centage; fifteen per cent. would be liberal.

Q. Would it make any difference, in your judgment, if the claimants consisted of a widow and three little children, and that the claim was the sole property left by the deceased husband for the support of his widow, and the support and education of the children?

A. That would involve questions of morality and sympathy; I can hardly express an opinion; a lawyer would naturally be inclined to charge less.

Q. How long have you been engaged in practise in the local
137 courts of the city of Washington, and the Supreme Court of the United States?

A. Fifteen years, I guess.

Q. Can you conceive of any condition of affairs, any amount of labor in a case, which would authorize a respectable lawyer in the city of Washington to charge one-half of the estate for collecting it, against an administrator or a dead man's estate?

A. I can; yes; if the amount of the claim were not very large, and involved a great deal of trouble, it might be that one-half would not be more than a proper fee or compensation for the trouble actually incurred, but I cannot readily imagine any condition of affairs justifying such a charge, where the amount involved is very considerable.

Mr. TOTTEN. $27,000.

A. Well, so large as $20,000 or $30,000, where the mere labor to be performed before a commission, as the Southern Claims Commission, would justify such a charge.

Q. Do you know anything about the schedule of fees established by the bar association here?

138 A. Oh, yes; I have a general knowledge of it.

Q. Do you know what the rate of commissions usually charged by attorneys on collection cases where the fees are entirely contingent is; what the rate of fees is?

A. I think ten per cent.

Q. Ten per cent. on sums less than $5,000.00?

A. Yes, sir; and five per cent. for sums over $5,000.

Q. Do you regard five per cent. as a reasonable compensation for making collections through our local courts here where the amount is in excess of $5,000, there being no particular controversy?

A. I think so; I think in ordinary collections by suit and work of filing a bill amounting to over $5,000.00, five per cent. is a fair charge.

Q. Does the management of a case before the Southern Claims Commission involve any extraordinary labor more than in the management of claims in other Departments or before the Court of Claims?

A. I should think not.

139 Q. The labor involved is less, if anything?

A. I should not say it was less; it is less than it would be before the Court of Claims.

Q. Very much less?

A. Yes, sir.

Q. The Court of Claims' cases are defended with a great deal of vigor?

A. Yes, sir.

Q. Do you know what the usual fees are in the Court of Claims, where they are contingent—what percentage on the amount collected?

A. I cannot say that I do know what is usually charged by the lawyers.

Q. You have collected a good many claims there, have you not?

A. No, sir; not a great many, I do not think I ever got over ten per cent.

Q. In the Court of Claims?

A. In the Court of Claims or any other court or commission. I have had a business of millions of dollars in various international commissions.

140 Q. And you have never received for your services oven ten per cent.?

A. No, sir. (After a pause). I will correct that. I had a case in the Southern Claims Commission where I had fifteen per cent. It was reported back and forth three or four times, and the result of it was that I paid away ten per cent. in expenses. I got the appropriation through, and my net fee was five per cent. Fifteen per cent. will apply to all my cases. In many cases other counsel have been associated and employed with me. Their fees were in addition to the fees paid to me. In some instances the fees paid to counsel & to attorneys in fact amounted to 25 per cent.

Q. In your estimate of fees, does it make any difference whether the controversy was vigorous or whether it was not; whether the labor was slight or whether the labor was great?

A. Certainly; it makes a great difference.

Q. How much?

A. You cannot suppose a case before any commission that is defended with more energy and persistency for a longer time than a case in a court, and the vigor with which a case was fought would, I think, make a difference of one-half in the amount of the fees we would charge. I would

141 rather—to illustrate my meaning—I would rather try a case before the Court of Claims, or before a commission, to which the Government was a party, for five per cent., where the amount was considerable, than to conduct a suit in a court of law, that was contested, at ten per cent.; first, because the opportunities of delay in a court of law are greater; and, secondly, because of the very much greater uncertainty in obtaining the money in the case of a favorable result; that makes a very great difference.

Q. In a case of the kind which I have put to you, where the amount is $27,310.00, and the number of witnesses examined here was only five or eight, where there was no particular controversy about it, would you consider a fee of fifty per cent. as an unconscionable or unreasonable charge against a widow and three little children?

A. Upon the facts as stated by you I certainly should so consider it. In some few cases I have had agreements for twenty-five per cent., but never collected or received anything in those cases.

NATH'L WILSON.

142 Cross-examination by Mr. Cox:

Q. If a claim for a large amount was sent to me from Louisiana by an entire stranger, to prosecute before the Southern Claims Commission, and afterwards follow up before Congress with a voluntary offer by the claimant of a contingent fee of 50 per cent., would I not be justified, in ignorance of the merits of the claim and the prospects of proof, in accepting the offer? And if I afterwards relinquished 20 per cent. of the agreed fee towards the expenses of prosecuting the claim, and reserved only 30 per cent., would the charge be improper?

A. I see no reason why such an offer should not be accepted, or why the retention of 30 per cent. of the 50 per cent. offered would be improper.

Q. Is there not a manifest difference between prosecuting these claims before the commission, where you are ignorant beforehand of the parties and their witnesses, and you are liable to be defeated by evidence

143 of disloyalty, or other facts which you cannot foresee or provide against, and where you have to urge the claim also before Congress, and your fee is contingent upon getting an award and appropriation, and the prosecution of an ordinary suit in court, where you have reasonable certainty as to parties and proofs and ordinarily receive compensation whether successful in obtaining judgment or not, and is not a much higher rate of compensation usual and reasonable in the former case?

A. There is certainly a difference in the prosecution of the cases described, and one would be fairly entitled to a larger contingent fee than would be considered reasonable where the fee was paid irrespective of the recovery of the money.

NATH'L WILSON.

144 JANUARY 28, 1878.

THOMAS WILSON, being first duly sworn on behalf of the complainants, deposes as follows:

Examination by Mr. TOTTEN:

Q. What is your business?

A. Court of Claims lawyer.

Q. You practice also in the District of Columbia courts?

A. Yes, sir.

Q. How long have you practised there?

A. Since the close of the war, 1865.

Q. Did you ever have any business before the Southern Claims Commission, so called?

A. I have; my principal business has been the prosecution of claims before the Departments, but of later years before the Court of Claims.

Q. Do you know the mode of proceedure in the Southern Claims Commission?

A. Yes, sir; I do.

Q. What, in your judgment, would be the maximum fee stated
145 by way of percentage for collecting a claim through the Southern Claims Commission?

A. I should say that a fair and reasonable compensation in the way of percentage would be 25 per cent. There are some cases that if you were to get the whole of them it would not be a sufficient compensation, but for ordinary cases in which you have enough expectation and belief that your case will be successful to justify you in taking it upon a contingent compensation, that compensation ought to be 25 per cent.

Q. Let me suppose a case for you. Suppose a man is called into a case before the commission after the petition has been prepared and filed, and that he and his associates hunted up the testimony and brought up four or five witnesses from Louisiana, and examined them before the commission, and that there was, in all, say six or eight depositions taken in the case—not any more than eight.

WITNESS. Depositions taken for whom?

Mr. TOTTEN. On both sides.

146 WITNESS. Examination of wtnesses before the commission or depositions taken abroad?

Mr. TOTTEN. No, they are examined personally before the com-

mission verbally. And suppose that an allowance is made by the commission of $27,310.00 and the claim is in favor of a widow and three little children, who have nothing else to live on. If you were called upon to advise a court of chancery what would be a reasonable fee for conducting that case—what would you say would be a reasonable percentage?

A. I could not put it above twenty-five per cent.

Q. Could you put it below? Would not ten per cent. be a reasonable compensation under those circumstances?

A. I was going to say that that was one of the kind of cases which, considering it after it had been decided, I would not think that it would be proper, or right, or just, or reasonable for an attorney to claim or for a court to award twenty-five per cent., and I should think that ten per cent. would be quite sufficient.

Mr. TOTTEN. I forgot to state to you that the compensation was
147 contingent upon success.

WITNESS. Well.

Q. Where by reason of circumstances an attorney after his arrangements have been made, his contract concluded, finds that his client cannot furnish the money to carry on the litigation in such a case, and the attorney advances the money—five, six, or eight hundred dollars—do you think that that fact authorizes him to increase the rate of compensation, or should he be compensated for his disbursements by repayment with interest?

A. My judgment is that the chances of loss are so great that unless his advances made are secured to him, to be paid in case of failure, it ought to increase his compensation.

Q. How much?

A. I hardly know how much, for I have found—my practice has shown me that it was so dangerous to make advances that I have declined to do so. I have not had any experience in regard to that; not of any consequence, at least.

148 Q. How does the skill, professional learning, and ability required to carry a case through the Southern Claims Commission compare with the skill, professional learning, and ability required to conduct a case in an ordinary court of chancery, or common law, or the Court of Claims? Does it require a higher order or a lower order of ability?

A. There is hardly any comparison to be made between that order of ability required in the two places. In those courts which you mention there is an opportunity for the highest order of legal skill and ability. In the Southern Claims Commission there is very little chance, very little opportunity or necessity for that high order of skill and ability that is so necessary in the other courts or so necessary in courts. I do not call the Southern Claims Commission a court.

Q. Any ordinary clerk could conduct a case very readily in the Southern Claims Commission?

A. Undoubtedly; that is, a good careful man, who was able to understand the drift of testimony, and could put the necessary questions
149 in order to bring out the testimony, is about all that there is required before the Southern Claims Commission. I do not understand or believe that there is any high order of brief, or argument, or legal principles required to be either presented or discussed before that

commission. It is but proper for me to say that there may be cases where a lawyer is charged with the duty of searching out and procuring testimony; going to distant parts of the United States for the purpose of attending the taking of depositions, and in that and other ways preparing a case for trial, which ought to largely increase his compensation. But of what I have been speaking have been cases in which such testmony was taken without the intervention of the attorney resident here, and wherein he was only charged with such duty as pertained to the trial of the case in this city before the commission.

Cross-examination by Mr. Cox:

Q. If you were voluntarily offered a contingent fee of thirty per cent. for undertaking a case where you were entirely ignorant of the
150 parties and proofs, and of the merits of the case, would you not feel it fair to accept it?

A. I cannot say but what I would; but I am free to say also that if it was a good case, which could be won as such, I should think that rate greater than ought to be paid, and if it was a bad case and was lost it would make no difference what rate was agreed to be paid.

Q. If an attorney is offered fifty per cent. under such circumstances and voluntarily relinquishes twenty per cent., with the claimant's consent, to other parties for services in procuring testimony, and then conduct sthe case through the commission and afterwards before the committees of Congress, having to make repeated arguments in advocacy of the case and in repelling charges against the claimant, and voluntarily advancing money for the claimant's personal expenses and maintenance, and finally receiving that money and interest back with thirty per cent. for services, would you not consider it a fair and reasonable contingent compensation?

151 A. I do not and will not advance money to claimants and depend upon a recovery before the Southern Claims Commission or before Congress for my repayment. I am willing to risk my labor upon the contingency of success, but I am not willing to risk my money, so I can give no opinion as to a fair rate of compensation with that element in the case; with that element eliminated I think the question comes within the general answer that I have heretofore given. My experience has been that when an agreement for what was considered a fair rate of compensation was made at the beginning of the case the case not unfrequently so increased in difficulties and procrastination as that the rate of compensation has been not unfrequently increased, but I have never known of one wherein it was diminished.

Q. Does not the uncertainty attending these claims before the Southern Claims Commission exceed that of ordinary litigation and also that of claims before the Departments and the Court of Claims, and justify
152 an unusally large rate of contingent compensation?

A. I do not think that the uncertainty is greater before the Southern Claims Commission than it is before the other tribunals mentioned. I think that the length of time and the distance when and where the claims originated have so conspired to increase the aggregate amount claimed as that a greater proportion of these claims are defeated than would be under other circumstances or with other kinds or sorts of claims, but that ought to be discounted in the beginning, and no man would ex-

pect to win so great a proportion of those claims as he would of other or ordinary cases.

A. Are not the want of any fixed mode of proceeding and proof, the ignorance you are under as to the merits of the parties and the reliability of witnesses from a distant part of the country, and the liability to defeat from proof of disloyalty elements which greatly increase the uncertainty?

153 A. It certainly is true that the ignorance one is under as to the merits of the case, and the reliability of witnesses from distant parts of the country, and the liability to defeat from proof of disloyalty are elements which increase if not the uncertainty of winning the case the certainty of losing it.

Q. Does not the magnitude of such claims make them only the more uncertain, because exposing them to greater scrutiny and suspicion and to greater danger of defeat on the ground of the claimant's disloyalty, because the large proprietors at the South were most generally disloyal, and is not the magnitude of the claim, for these reasons, a just ground for increasing instead of diminishing the contingent rate of compensation?

A. As I have already said, the length of time, the distance of space, the change of circumstances by reason of the overthrow of the Confederacy, coupled with the desire to recover, and the knowledge that no recovery can be had only as against the United States, all conspire to render the collection of these claims more and more uncertain.

154 The claimants make their claims for the largest amounts, and seek in many ways to deceive the Government, their own attorneys, and even themselves, into the belief that they have been always loyal to the United States, and that they can recover much larger sums than they would ever be entitled to if they had been always thus loyal. But, as I have also said, lawyers prosecuting claims have become posted with regard to these things, and they are rather discounted in advance.

THOMAS WILSON.

154½ *Replication to answer of Wood.*

Supreme court of the District of Columbia.

BEMISS *vs.* TAYLOR & WOOD. } 5316.

And now come the said complainants and join issue on the answer of defendant Wood.

ENOCH TOTTEN,
*For Comp*troller.

155 *Record from U. S. Treasury—stipulation.—Filed Mar.* 29, 1878.

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL. *vs.* GEORGE TAYLOR. } Equity. No. 5316.

It is hereby stipulated and agreed that the copies of documents hereto

attached and certified to be true copies of documents on file in the Treasury Department of the United States by the proper officers of the said Department may be read in evidence on the trial of the above-entitled cause, with the same force and effect as if they had been regularly proven before an examiner of the court and by him returned. The papers referred to are the following, to wit:

1. Two powers of attorney executed by Laura J. Bemiss, one dated November 25, 1873, to the defendants Taylor and Wood, and the other dated January 8, 1875, to defendant Taylor.

2. Revocation of said power of attorney by Laura J. Bemiss, dated September 5th, 1876, a protest by said Laura J. Bemiss, and the
156 letters appointing Laura J. Bemiss tutrix of her children, which letters were issued by the judge of the parish of Iberville, in the State of Louisiana, and are dated May 31st, 1870.

3. Copies of two drafts issued by the Treasury Department of the United States, on the 26th day of October, 1876, numbered, respectively, 5875 and 5876, payable to the order of Laura J. Bemiss and her children, together with the endorsements thereon.

October 6, 1877.

ENOCH TOTTEN, *Att'y for Comp't.*
W. S. COX, " " *Def'ts.*

157 W. B. W.] TREASURY DEPARTMENT.

Be it remembered that Horace Austin, esq., who certified the annexed transcript is now, and was at the time of doing so, Third Auditor of the Treasury, and that full faith and credit are due to his official attestations.

In testimony whereof I, John Sherman, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department at the city of Washington this 23d day of April, in the year of our Lord 1877.

[SEAL.] JOHN SHERMAN, [U.
Secretary of the Treasury. [McC.

A. A. S.] TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., April 20, 1877.

I hereby certify the papers hereto attached to be true copies of the originals on file in this office.

HORACE AUSTIN, *Auditor.*

158 *Power of attorney.*

Know all men by these presents that I, Laura Jane Bemiss, widow of John Bemiss, deceased, and tutrix of his minor children, of near Plaquemine, Iberville Parish, in the State of Louisiana, have made, constituted, and appointed, and by these presents do make, constitute, and appoint, Messrs. Taylor and Wood (Geo. Taylor & F. C. Wood), of Washington, D. C., my true and lawful attorneys irrevocable for me and in my name, place, and stead, hereby annulling and revoking all former powers of attorney or authorization whatsoever in the premises, to prosecute a claim

against the United States Government, now pending before the Southern Claims Commission, and numbered 7316 on the files of that commission, being for stores and supplies taken for the use of the U. S. Army, and amounting to about $129,475.00, as claimed in her petition, the same being taken from the estate of John Bemiss, deceased, and to from time to time furnish any farther evidence necessary or that may be demanded;
159 giving and granting to my said attorneys full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution and revocation, and to receipt and sign all vouchers, hereby ratifying and confirming all that my said attorneys or their substitute may or shall lawfully do or cause to be done by virtue hereof.

In witness whereof I hereunto set my hand and seal, this twenty-fifth day of November, eighteen hundred and seventy-three.

LAURA J. BEMISS.

I. E. GRACE.
F. P. PASEREAU.

STATE OF LOUISIANA,
Parish of Iberville, ss:

Be it known that on this twenty-fifth day of November, in the year eighteen hundred and seventy-three, before me, the undersigned, a
160 notary public in and for said county and State, personally appeared Mrs. Laura Jane Bemiss, to me well known to be the identical person who executed the foregoing letter of attorney, and the same having been first read over to her, and the contents thereof explained, acknowledged the same to be her act and deed; and that I have no interest, present or prospective, in the cliam.

In testimony whereof I have hereunto set my hand and affixed my seal of office the day and year last above written.

[SEAL.] AUSTIN HUNT,
Notary Public.

161 Know all men by these presents that I, Laura J. Bemiss, representative of the estate of the late John Bemiss and tutrix to his children, of Pointe Coupée Parish, Louisiana, have made and do make, constitute, and appoint George Taylor, of the city of Washington, my true and lawful attorney to prosecute and collect or receive the draft issued to me in my case now pending before the Southern Claims Commission in Washington City, and I hereby declare that the attorney mentioned in the petition in said case, to wit, D. E. Barnitz, esq., is wholly unknown to me, and that he has done nothing in the prosecution of said case, and that I am informed that he is now dead; that the said George Taylor and F. C. Wood are the only attorneys known to me, and have done everything in said claim except to file the petition, which I supposed had been done by a party in New Orleans, and I make these statements to authorize the Treasury Department to deliver any draft which may hereafter be issued to me in said case to the said George Taylor and to no one else.

162 And I hereby ratify all my said attorney may do in the premises.
Signed, sealed, and delivered this eighth day of January, 1875.

LAURA JENNIE BEMISS.

Witness:
JAMES N. CALLAN.
CHAS. COUS. CALLAN.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Be it known that on this eighth day of January, A. D. 1875, before me, the undersigned, a notary public within and for the District of Columbia, personally appeared Laura J. Bemiss, to me well known to be the identical person who executed the foregoing letter of attorney, and the same having been first read over to her and the contents thereof explained, acknowledged the same to be her act and deed.

Witness my hand and seal the day and year last above written.

[SEAL.] CHAS. COUS. CALLAN,
Notary Public.

163 J. T. P. W. B. M.]

UNITED STATES OF AMERICA.

TREASURY DEPARTMENT,
April 25th, 1877.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals on file in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

JOHN SHERMAN, U.]
K. M. C.] *Secretary of the Treasury.*

164 STATE OF LOUISIANA,
OFFICE OF SECRETARY OF STATE,
New Orleans, August 23d, 1876.

I hereby certify that James Crowell is and was at the date of the annexed instrument clerk of court in and for the parish of Iberville, in said State, and that his attestation thereof is in accordance with law and his signature is genuine.

Given under my hand and the seal of the State this twenty-third day of August, A. D. 1876, and of the Independence of the United States of America one hundred and first.

[SEAL.] P. G. DESLONDE,
Secretary of State.

165 Know all men by these presents that I, Laura J. Bemiss, of the State of Louisiana, do hereby revoke and annul all powers of attorney by me made heretofore relating to a certain claim in my behalf and in behalf of my three daughters, Belle, Elizabeth, and Mattie Bemiss, pending before the Commission of Claims, organized under the act of

Congress of March 3d, 1871, whether made in my own behalf or in my own behalf and as tutrix of my said daughters, and more especially and particularly do I revoke a certain power of attorney executed and acknowledged by me on the 23d day of November, 1873, as widow of John Bemiss, deceased, and tutrix of his minor children, purporting to authorize Taylor & Wood (George Taylor and F. C. Wood) to prosecute the above-mentioned claim, and also do I especially and particularly revoke and annul another certain power of attorney executed and acknowledged by me in Washington, D. C., January 8th, 1875, as representative of the estate of the late John Bemiss and tutrix to his children, purport-
166 ing to appoint George Taylor, attorney, to prosecute the said claim and to receive the draft issued therefor; and I also hereby revoke and annul all powers of attorney and all power and authority of every kind and character heretofore given to George Taylor (or Taylor & Wood) to act as my attorney or the attorney of my said children or as the attorney of said estate in regard to all and all manner of business; and I especially prohibit and forbid him from interfering with a certain appropriation of the sum of $27,310.00, made for me and my said three daughters in and by a certain act of Congress, entitled "An act making appropriations for the payment of claims reported allowed by the Commissioners of Claims under the act of Congress of March third, eighteen hundred and seventy-one, and for other purposes," approved August , 1876, and I forbid him from receiving any draft or drafts which may be issued in payment of said appropriation, and also I forbid the officers of the United States from delivering any such draft or drafts to said Taylor or to Taylor & Wood or to any one for him or them or either of them.

167 In witness whereof I have hereunto set my hand and seal this fifth day of September, A. D. 1876.

LAURA J. BEMISS.

Signed, sealed, and delivered in presence of—
ALBERT B. RUFF.

DISTRICT OF COLUMBIA,
County of Washington, ss:

I, Albert B. Ruff, a notary public in and for the said county and District, duly commissioned, do hereby certify that Laura J. Bemiss, of the State of Louisiana, who, being well know' to me, personally appeared before me, in the county aforesaid, and signed and acknowledged the foregoing instrument, being a revocation of a power of attorney, and, having the same fully explained to her, acknowledged it to be her act and deed.

Witness my hand and notarial seal this fifth day of September, A. D. 1876.

[SEAL.] ALBERT B. RUFF,
Notary Public.

168 WASHINGTON, D. C., *Oct. 25th*, 1876.

To all whom it may concern:

I, Laura J. Bemiss, for myself and as tutrix for my children, Bell, Mattie, and Elizabeth Bemiss, hereby protest against the allowance and

payment to George Taylor, as attorney for me, a fee of fifty per centum or one-half of the appropriation to me and my children made by the act of Congress to pay allowance by the Southern Claims Commission, so called, and I endorse the Treasury drafts under protest and against my will, knowing the same to be wrong, but am compelled by my urgent necessities to submit. I make this protest to save all my rights of action against the said George Taylor to recover back all the money so wrongfully taken out of and detained by said George Taylor.

Witness my hand this day and year aforesaid.

LAURA J. BEMISS.

Witnesses:

H. H. DUDLEY.
GEORGE WILLIS.

169 STATE OF LOUISIANA,
Parish of Iberville, Parish Court:

By this public letter of natural tutorship be it known that Laura Jane Bemiss having, by order of the parish court, *have* been confirmed and qualified as natural tutrix to her minor children, Elizabeth Metcalf Bemiss, Mattie Semple Bemiss, and Belle Cyreene Bemiss, issue of her marriage with John Bemiss, deceased, and having as such taken the oath by law in such case required, she is authorized and empowered to do and perform all acts as natural tutrix aforesaid.

In testimony whereof I, Edward Moore, judge of said court, have granted these presents under my official signature and the seal of said court, this 31st day of May, in the year of our Lord one thousand eight hundred and seventy.

(Signed) EDWARD MOORE,
Parish Jud'e.

A true copy.

JAMES CROWELL, *Clerk.*

170 J. T. P. W. B. M.]

UNITED STATES OF AMERICA.

TREASURY DEPARTMENT,
Washington, D. C., April 27, 1877.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed are true copies of the originals on file in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

K. M. C.] [SEAL.] JOHN SHERMAN. [U.

171 [Face of draft.]

Draft No. D 5875. Series of 1864. J. T., St. A., M. K., C. D. W.

On war warrant No. 4956, pt.

TREASURY OF THE UNITED STATES,
Washington, D. C., Oct. 25th, 1876.

Pay to the order of Laura J. and her daughters Belle, Elizabeth, and

Mattie Beamiss, fourteen thousand five hundred ninety-eight and $\frac{33}{100}$ doll's.

$14,598.33.]

Cr.

A. U. WYMAN,
Treasurer of the United States.

Registered Oct. 25th, 1876.

W. P. TITCOMB,
Act'g Register of the Treasury.

To TREASURER U. S., *Washington, D. C.*

[Back of draft.]

The endorsements of this draft must be technically and legally perfect, or the officer on whom it is drawn will refuse payment thereof.

LAURA J. BEMISS.
LAURA J. BEMISS,
Tutrix to my minor children Belle, Elizabeth, and Mattie Bemiss.
GEO. TAYLOR.

This draft may be paid on the indorsement of Laura J. Bemiss for herself and as tutrix of the other payees.

R. W. TAYLOR,
Com'troller.

OCT. 25TH, 1876.

172 [Face of draft.]

Draft No. D 5876. Series of 1874. J. F., St. A., M. K., C. D. W.

On war warrant No. 4956, pt.

TREASURY OF THE UNITED STATES,
Washington, D. C., Oct. 25th, 1876.

Pay to the order of Laura J. and her daughters Belle, Elizabeth, and Mattie Bemiss twelve thousand seven hundred eleven and $\frac{67}{100}$ doll's.

$11,711.67.]

A. U. WYMAN,
Treasurer of the United States.

Registered Oct. 25th, 1876.

W. P. TITCOMB,
Act'g Register of the Treasury.

To TREASURER U. S.,
Washington, D. C.

[Back of draft.]

The indorsement of this draft must be technically and legally perfect, or the officer on whom it is drawn will refuse payment thereof.

LAURA J. BEMISS.
LAURA J. BEMISS,
Tutrix to my minor children, Bell, Mattie, & Elizabeth Bemiss.

This draft may be paid on the indorsement of Laura J. Bemiss for herself, and as tutrix of the other payees.

R. W. TAYLER,
Comptroller.

OCT. 25, 1876.

TREASURY U. S., *April* 26, 1877.

I hereby certify that the foregoing are true copies of the originals, drafts on file in this office.
J. F.]

JAS. GILFILLAN,
Ass't Treasurer U. S.

172½ *Stipulation of counsel.*

In the supreme court of the District of Columbia.

BEMISS ET AL. *vs.* TAYLOR ET AL. } Equity. No. 5316.

It is hereby stipulated and agreed in this cause that the laws of the State of Louisiana applicable to this cause may be read from the printed books containing the same on the hearing, in the same manner and with the same force and effect as if the said laws had been formally proven and returned as evidence in the cause.

April 2, 1878.

ENOCH TOTTEN,
For Compl'ts.
WALTER S. COX,
Sol'r for Def'ts T. & W.

173 *Defendants' testimony.—Filed April* 27, 1878.

In the supreme court of the District of Columbia.

BELLE, ELIZABETH, MATTIE BEMISS, BY NEXT friend H. H. Dudley, *vs.* GEORGE TAYLOR, LAURA J. BEMISS, FRANK C. Wood. } No. 5316. In equity. Docket No. 16.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Be it remembered that at an examination of witnesses begun and held on the 20th day of October, A. D. 1877, and continued from time to time by adjournment within noted until the 22d day of April, A. D. 1878, when the within depositions were taken, I, H. H. Alexander, an examiner in chancery, did cause to be personally present at the office of Mr. Walter S. Cox, in the city of Washing-
174 ton, in said District, the within named witnesses, to testify in a certain cause now depending in the supreme court of the District

of Columbia, wherein Belle, Elizabeth, & Mattie Bemiss are complainants and George Taylor, Laura J. Bemiss, & Frank C. Wood, defendant'.

I, H. H. Alexander, examiner in chancery, do hereby certify that in pursuance of agreement of counsel the within depositions were taken down and by me reduced to writing from the statement of the witnesses; were by me read over to the witnesses, and by them subscribed in my presence, the witnesses having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause.

I further certify that I am not of counsel for any of the parties to said cause, or in any manner interested therein.

H. H. ALEXANDER,
Examiner in Chancery.

175 *Index.*

Judge John Ray .....direct.
" ..... cross.
" .....redirect.
Frank C. Wood .....direct.
" ..... cross.
" .....redirect.
Hon. Orange Ferriss.....direct.
" .....cross.
Hon. Asa O. Aldis.....direct.
No cross.
Chas. F. Benjamin.....direct.
" .....cross.
P. E. Dye ....direct.
" .....cross.
.....redirect.
Joseph Casey.....direct.
" .....cross.
Chas. F. Peck.....direct.
" ..... cross.
" .....redirect.
176 Addison A. Hosmer.....direct.
" .....cross.
" .....redirect.
William Richards.....direct.
" .....cross.
" .....redirect.
" .....recross.
George Taylor.....direct.
" .....cross.
John H. Sullivan.....direct.
No cross.
Theo. H. M. McPherson.....direct.
No cross.
James M. Denver.....direct.
No cross.

177 In the supreme court of the District of Columbia, Saturday, Oct. 20th, 1877.

BEMISS ET AL.
vs. } Equity. No. 5316. Docket 16.
TAYLOR ET AL.

Met pursuant to notice at the office of Mr. Walter S. Cox, No. 505 D st. NW.

Present: Mr. Enoch Totten, counsel for plaintiffs; Mr. Walter S. Cox, counsel for defendants, and defendant Taylor.

Whereupon JOHN RAY, a witness of lawful age, was produced, sworn, and examined in the behalf of the defendants, as follows:

By Mr. COX:

Q. You know of the claim of Mrs. Bemiss against the United States?

A. Yes, sir, I am acquainted with the fact that she had a claim

178 against the United States.

Q. State whether you were employed in connection with that claim, and under what circumstances, &c.

A. I think it was in 1873 that I was written to from Washington City, either by Mr. Hank or by Mr. Taylor; I am not certain which, possibly by both; my letters were destroyed by fire, and I haven't them to refer to, but one or the other of them wrote to me from here, making a proposition to me to bring on all the witnesses in that case, and proposing to give me an interest in that claim for doing so. I think it was in the fall of 1873. I acceded to the proposal they made to defray the expenses of bringing the witnesses on in that case, and I did subsequently pay the expenses of the witnesses that were sent on here to testify before the Southern Claims Commission in regard to the case.

179 By Mr. TAYLOR:

Q. State what that proposal was.

A. The proposal was to give me ten per cent. of the amount that might be recovered from the Government on the claim, in consideration of my paying the expenses of the witnesses, for bringing on the witnesses for the purpose of proving up the claim. I paid the expenses of all the witnesses that I know of that were brought here. I think there were no other witnesses except those whom I paid the expenses of; and from that testimony I believe the cases were decided by the Southern Claim Commissioner, allowing twenty-seven thousand dollars, or about that amount. After the claim was collected my ten per cent. was paid to me by Mr. Taylor.

Q. What is your business?

A. I am an attorney-at-law, sir; have resided in Louisiana for the last thirty-eight years.

180 By Mr. TOTTEN:

Q. You practice there, do you?

A. Yes, sir.

By Mr. TAYLOR:

Q. Have you had any connection as an attorney with the collection of claims, in the city of Washington?

A. Since about 1872—perhaps it may be in 1873 that I commenced taking any claims, but since 1872 or 1873—I commenced soliciting claims from citizens of Louisiana who had claims against the Government here, and I have been engaged in that business ever since.

Q. How many cases have you probably represented before the Southern Claims Commission?

A. Well, I have not calculated the number, but I suppose there have been between 150 and 200 claims that I have represented before the Southern Claims Commission. Some have been decided, and some not
181 decided, the greater part undecided.

Q. Are you acquainted with the charges where the parties pay the expenses of the witnesses in bringing them up before the Southern Claims Commission, &c.?

A. I believe I am, so far as I am concerned myself. Of course I cannot state as to what other claim agents do, but I believe my charges were about the same. With the exception of, so far as I can recollect, two cases, and this is one of them, I do not recollect to have made a contract for less than 50 per cent. of the amount of the claim recovered. That was the uniform contract that was made. It was a written contract entered into with the other party. I have compared with other claimants, and I think that is the usual charge, at least so far as I have any knowledge from the others. So far as I am concerned myself, that has been, with the
182 two exceptions that I have mentioned, the usual charge. I do not recollect to have made a contract on any other terms. My contract is to defray all the expenses necessary in the prosecution of the claim, and of whatever is collected to have one-half for my fee and expenses.

By Mr. TOTTEN:

Q. That is generally; you do not mean in this case?

A. I mean generally. This is one of the cases where it was less, and there is one other case that I recollect of now.

By Mr. TAYLOR:

Q. You were not employed generally in this case?

A. No; I was only employed for the particular purpose of sending the witnesses up in this case.

Q. You were not the attorney of record?

A. No, sir.

Q. You had nothing to do with it except what you have mentioned?

183 A. That was my only employment in this case—to get the witnesses, send them on here, and pay their expenses.

Q. You spoke of where you pay all the expenses; what other expenses are there?

A. Well, in those cases I divided my half with my associates here. I make a contract, for instance, in Louisiana with the claimants there to procure their claims. I agree to incur all the expense that is necessary in procuring evidence, for attorneys' fees, and everything of that kind. Well, I have my associates here who are paid out of it as well as myself. The claimant is to be at no expense for attorneys' fees, nor costs of any kind; in fact, when the claimants themselves come on as witnesses, their expenses are paid as witnesses.

Q. Are you acquainted with the laws of Louisiana regulating the action of natural tutor to children?

184 A. Well, sir, as I have stated, I have been a practising lawyer for thirty-eight years, also, and have had very many cases. I have studied our laws upon that subject, and I think I am as well acquainted upon that branch of the laws as in any other.

Q. Did you codify the laws?

A. I revised the civil code and the statutes of that State. I was appointed for that purpose by the legislature in 1868, and closed my labors in 1870. Previous to my appointment I employed a great deal of my time in that work. I was appointed by the legislature in 1868 to revise the civil code and the code of practice and the statute laws of the State. I completed the work, and in 1870 the legislature adopted those as the laws of the State.

Q. Now, will you please state what the rights and powers of

185 a natural tutor in the collection of debt due the estate?

Mr. TOTTEN. I object to the question.

A. The natural tutor under our law is the surviving father or mother. They have a right under the law to be confirmed, as we call it, as natural tutor. They take charge of the personal effects of the minor without giving any security; and, as I say, they are entitled under the law to the control of the persons and all the property of every kind belonging to the minor that is in the State. They proceed to collect the assets belonging to the minors, if there be any, and to recover any property in which it may be necessary to assert their rights in any way. A suit is instituted in the name of the tutor without any regard to the minors. In other words, the tutors institute the suits in their own names; they make contracts as they would in their own business. A tutor makes a contract, for in-

186 stance, with an attorney for the purpose of collecting a claim. The tutor is personally responsible for the amount of the stipulation. If, in the settlement of the tutor with the minor, the minor conceives that a greater fee has been paid than there ought to have been, or that there has been any waste in the minor's estate, it is then put up as a claim against the tutor for having expended more money than he should have spent in the management of the estate. In other words, the tutors on their individual responsibility make all the contracts necessary to enforce the rights of the minor in every respect. In the settlement of a tutor with a minor, if the minor thinks that the tutor has paid more compensation in the way of fees or in any other way than was proper that would be a claim for adjustment between a minor and a tutor when they came to settle.

187 Q. Where would that settlement properly take place under the civil laws of Louisiana?

A. It would take place in the parish wher' the appointment of the tutor was made; that is, the court would have jurisdiction over the matter generally. The minors when they come of age will call upon the tutor to account in the parish where the tutorship originated, and the settlement would be made before the courts there.

Q. Do you recollect what was said in the letters either from Captain Hank or from myself or firm with regard to the employment and how the amount was to be paid?

A. I do not know that I do, Mr. Taylor, further than that I was to have 10 per cent. of the amount that might be allowed and collected as my compensation for the service I rendered in the case. It may
188 have been stated, but I cannot now call it to mind.

By Mr. TOTTEN:

Q. Those letters you say were burned?

A. Yes, sir; destroyed.

By Mr. TAYLOR:

Q. Do you know whether everything was done in Louisiana in that case that could be done in securing witnesses and sending them up?

A. I believe it was. I was very vigilant myself, and I applied to every person that I thought of about it. I got all the witnesses and all the information that I could. Two of the witnesses, Mr. Jewell and Mr. Claiborne, in order to get them to come here I had to pay considerable extra to. I paid them one hundred dollars apiece besides their expenses in order to get them to come at all. They were very important witnesses, and I could not get them to come otherwise.

189 Q. They had important business to attend to at home?

A. Yes, sir; both of them had property interests and important business transactions requiring their attention at home. They were neighbors of the claimants and I knew that they were witnesses by whom certain facts could be established, and they were induced to come by paying them the certain compensation for that reason. They were friends of the family.

Q. What is the nature of community of property under the civil law, and how does it descend?

Mr. TOTTEN. I object to the question, because the statute laws are the best evidence.

A. Well, sir, everything is community under the laws of Louisiana that is acquired during the marriage by either the husband or wife separately or together, except where there is a property inherited by either
190 one of them, or property given separately to either one of them. Property inherited by the wife or husband during the marriage is their separate property or if given to him or her expressly. All other property is community property. At the dissolution of the marriage after the payment of the community debts (the debts contracted after marriage) the property is equally divided between the survivor and the heirs of the deceased. I cannot recollect what my contract was, further than what my compensation was to be, but I took a great deal of trouble in hunting up the witnesses, and ascertaining what was to be proved by them and sending them on here.

Q. Do you recollect of receiving any letters from Taylor & Wood, or from myself individually, urging the necessity of looking after the interests of that case and combatting the troubles that intervened?

191 A. I think I received a good many letters from Mr. Wood, or from you individually (I cannot recollect which, now) on the subject, urging me to be vigilent to get the testimony and send it on.

Q. At different times?

A. Yes, sir.

Q. Do you recollect any particular cases where you were written to, or

telegraphed to, to take particular pains in ascertaining facts that had been communicated to Washington connected with the claim?

A. Well, I cannot say now, Mr. Taylor, exactly, except this generally, that I know you wrote to me very frequently—you or Mr. Wood—on the subject, and urged me very strongly to give particular attention to the case. I cannot recollect the particular points now, but I know that you were very vigilant in the case.

192 Q. Do you recollect hearing of an attempt to defeat the claim by sending up certain letters and other testimony?

A. Yes; that fact, I think, was communicated to me by you through lettter.

Q. Were you requested to ascertain the names and the source that this information came from, and to get all the information possible, so that we could defeat their movements?

A. I think I was; yes, sir. Whether I was requested to do it or not, I did do it.

Q. Just state what you did, as far as you recollect, in going to different parties and making inquiries.

193 A. I felt considerable interest in the collection of the claim, and whatever difficulties were suggested to me as likely to arise I took a great deal of pains to remove; but it has been a good time ago, and I cannot recollect the particular difficulty which arose. I recollect the circumstance that you allude to; that it was thought that there were some persons down there who would throw difficulties in the way; but I never could find out the truth of it.

Q. But at our solicitation you made every effort to ascertain that fact?

A. Yes, sir; I was as vigilant in that case as it was possible to be in any case, because there was a large amount involved and I expected to get a good fee, and I did not want to be defeated. I believed it also to be a just claim, from all the information I could derive there.

194 Q. Do you know how Taylor & Wood or myself acted in the matter of the prosecution; whether we were earnest and vigorous or whether we neglected it?

A. What I know is that I received your letters; but I believe I was here at Washington once or twice during the time and you were as vigilant as attorneys could be. You wrote to me frequently about it, and gave me every information you had, urging me to get the testimony, and I do not think that there was any remissness at all on your part nor on mine. I think we all did all we could in the matter.

Q. The matter to which you refer as having your attention particularly called to it was during the progress of the case, or about the time that it was closed before the commission?

195 A. I think, Mr. Taylor, that it was after the evidence was all in that there was a suggestion in some letters written by you—or you may have told me here, I do not recollect which now, but I think it was by letter—that there were parties down there that would endeavor or were endeavoring to do something to defeat the claim.

Q. Did you learn who those parties were?

A. I cannot recollect now that I did. I must have known at the time, but I do not recollect now who they were; I do not recollect that any effort was made, but it was talked of.

Cross-examination by Mr. TOTTEN:

Q. When did you bring those witnesses to Washington, Mr. Ray?

A. I cannot recollect certainly. It was some time after Decem-
196,197 ber, I think, 1873; it may have been 1874; I think it must have been in the year 1874.

Q. Was it in the winter, summer, or fall?

A. They came here or were sent on here in the winter season. I know it was not in the summer, but whether it was in the spring or winter, I cannot exactly recollect.

Q. But it was either in the winter or spring of 1874, you think?

A. I think it was; I think it was in the fall of 1873 that I was employed.

Q. Then it was in the following winter or spring that those witnesses came on?

A. Yes, sir; in the following year.

Q. Did you come with them yourself?

A. No, sir.

Q. Whom did you send here?

A. Captain Hank.

Q. And who else?

198 The WITNESS. You mean with the witnesses?

Mr. TOTTEN. As witnesses.

A. Well, I recollect only the names of two of them now; those were Mr. Jewell and Mr. Claiborne.

Q. How many witnesses in all did you send here?

A. Five or six; five, I think. I do not recollect who the other three were.

Q. And they all testified in the case?

A. I presume they did. They were sent here; I was not present; I did not come with them.

Q. You are sure there were five witnesses came?

A. I think I may say I am sure; it is my recollection now. There may have been more than that; but still I cannot say with certainty that it was that many.

199 Q. Did you pay each of them a bonus in addition to the expenses?

A. I think I did, sir. I paid Jewell and Claiborne a hundred dollars apiece; to the others I think I gave some articles of clothing.

Q. Were any of them colored people?

A. I think there were, sir.

Q. How many?

A. I cannot recollect; I think two, but I am not positive. Some of them, one or two, were colored.

Q. Jewell and Claiborne were white men?

A. Yes, sir.

Q. They are the business men that you speak about?

A. Yes, sir.

Q. How much did you pay by way of expenses for all these witnesses?

A. Well, now, I could not say exactly; but I think about six hundred dollars.

200 Q. Then you paid two hundred dollars to those other witnesses, making eight hundred dollars?

A. No, I included that two hundred. If there were five witnesses it would cost about a hundred dollars for each witness to send him from New Orleans here and back, paying necessary expenses; then the two hundred dollars extra would probably have made it seven hundred dollars in all for everything. It may have been a little over; that is as near as I can come to it now.

Q. How long did they stay here?

A. Well, that I do not know, exactly, but I think only a few days.

Q. You said that you sent Captain Hank with them?

A. Yes, sir.

Q. To bring them up here?

A. Yes, sir.

Q. Is Captain Hank a member of the bar?

A. No, sir.

201 Q. You merely sent him in your place?

A. Yes, I put him in charge of the witnesses.

Q. And you count the expense incurred in his behalf in the $700?

A. No, I did not count that.

Q. Then how much extra was that?

A. Well, it cost Captain Hank about the same it would cost a witness to come here. He went and returned with the witnesses. I sent him for the purpose because I was afraid the witnesses might scatter, and I could not come on myself.

Q. In settling the accounts of these tutors or a tutrix, as vouchers for payment made by them, are all superintended and controlled by the court?

A. Yes, sir.

Q. If a tutor pays out more than the court thinks he ought to have paid out, the amount will be disallowed?

202 A. Yes, sir.

Q. The rule of settling the account of administrators and guardians and tutors is pretty much the same, is it not?

A. I do not know of any difference.

Q. Is it not the rule in your State that an administrator, or a tutor, if you please, can make contracts only upon the advice and commission of the court?

A. That is in case of investing or purchasing property, say; for instance, the administrator cannot use or invest the funds. The administrator only pays for purpose of distribution; but when the tutor comes into possession of the funds of the minor it is his duty to invest them. Then he has to procure the authority of the court to invest them; but in the ordinary administration of the tutor, when he makes contracts it is upon his own account.

Q. He has nothing to do with reality?

203 A. He has nothing to do with it more than to rent it out.

Q. He cannot sell it?

A. No; though the family may meet in the court for certain purposes defined in the law.

Q. Will you please state, for the benefit of the counsel and the court, where the laws of Louisiana may be found?

A. Well, you will find in the Civil Code, about article 332, I think——

Q. (Interposing.) I desire simply the name of the books.

A. The Civil Code.

Q. Is that the title of your fundamental laws?

A. Yes, sir; all the duties of tutor will be found in that book.

Q. In addition to the book called the Civil Code of Louisiana you have a book containing the statutory law other than the Civil Code?

A. Yes, sir.

204 Q. Will you please to state the name of that, and how many volumes of it there are?

A. The Revised Statute. There is but one volume of that. Besides that, however, there was a digest made. There are two volumes of that digest. That digest, however, has not been adopted as law. The Code of Practice and the Civil Code, and the Revised Statutes were each adopted by the legislature as the law of the State. Subsequent to that, of course, there has been legislation, multiplication of different provisions, new laws passed since that time.

Q. Are there any special laws that you think of relating to the accounts and duties of tutors in these new laws that have been passed?

205 A. I do not think there has been any change made in the method of settlement. If there have been changes they are very immaterial.

Q. You have never done any business in the city of Washington as a claim agent except indirectly through others, have you?

A. No, sir; that is, I have been connected with others in claims that I have here; never exclusively by myself.

Q. You have never been here doing business as claim agent in person?

A. I have been here a good deal looking after claims, but there were always other persons looking more particularly after them.

Q. You have always had a local correspondent here?

A. Yes, sir; for all the business I have had.

Redirect by Mr. TAYLOR:

206 In your cross-examination you stated that in investment of funds and the sale of property belonging to estates or heirs the law required that they should have a family meeting, and then that that should be ratified by the court?

A. Yes, sir.

Q. That is not necessary in a case like this, where they are reducing the debts into possession or collecting debts due to the estate?

A. No, it is the duty of the tutor to proceed to recover all the property that may be in controversy.

Q. The tutor has full power to do so without the authority of the court or any family meeting?

A. Yes, sir.

Q. Then if the tutor were to make a contract with attorneys for the purchase of collecting debts that would be binding equally upon all the parties interested?

207 Mr. TOTTEN. Objected to as being a question of law.

A. I understand that to be our law and the jurisprudence of our State.

Q. Has the tutrix authority to give a power of attorney to close matters at a distance?

Mr. TOTTEN. Objected to.

A. Yes, sir; I think he is specially authorized to do that under our law.

JOHN RAY.

Sworn to and subscribed before me.

H. H. ALEXANDER,
Examiner.

208 FRANK C. WOOD, produced, sworn, and examined on the part and behalf of the defendants, as follows:

By Mr. TAYLOR:

Q. Will you please to state whether you were a member of the firm of Taylor & Wood?

A. Yes, sir; I was. My association began, I think, in 1872, and our partnership terminated Jan. 1st, '75.

Q. Do you know anything about the employment of Taylor & Wood by Mrs. Bemiss in the prosecution of the case before the Southern Claims Commission?

A. Yes, sir.

Q. Please state what you know of the inception of that contract, the beginning of the correspondence, and the nature of the correspondence, as far as you are acquainted with it.

209 A. I think the first letter that we had in regard to the claim was from Mr. John Rawle, of Natchez, Miss. That was a letter addressed to Mr. Taylor, enclosing a letter from Mrs. Bemiss, the claimant. It was a letter introducing her and enclosing her letter. In this letter Mrs. Bemiss told Mr. Rawle——

By Mr. TOTTEN:

Q. (Interposing.) Haven't you got it?

A. Yes, sir.

Mr. TOTTEN. Just put it in.

The letters and enclosures are as follows:

NATCHEZ, *Oct. 5th*, 1873.

GEO. TAYLOR, Esq., *Washington, D. C.:*

DEAR SIR: Enclosed you please find a letter from Mrs. Bemiss. It explains itself. I only received it this morning, and in order to facilitate matters I forward it to you, so you can look into her case and be prepared to advise her at once, for delays are dangerous.

210 Y'rs, r'p'y,

JOHN RAWLE.

PLAQUEMINE, IBERVILLE POINT,
Pecan Grove Plant., Sept. 30th, 1873.

To Mr. JOHN RAWLE, *Natchez:*

DEAR SIR: Having a large claim against the U. S. G., and being dissatisfied with the lawyer in whose hands in Washington City the claim is placed, I have been referred to Mr. Geo. Taylor, who was your's and your brother-in-law's, Mr. Fred. S., lawyer, by Mr. H. H. Peale, for information in regard to Mr. Taylor, as he was successful in your claim against the U. S. Government. Mine is for three hundred h'g's sugar, large amount of molasses, corn, 5,000 bushels, thirty or forty splendid English milch cows, calves, yearlings, large quantity sheep, hogs, mules,
211 wagons, & burning a magnificent sugar-house. At that time I was living opposite Bayou Sara.

All this has been acknowledged by the very best Federal authority. Gen. Emery has given it the needed endorsements, and says it ought to be paid; that it is just and right; besides every other officer that was there and witnessed the property taken for their supplies when they were very much in need of supplies. Now, when so many other claims have been paid, with not half the endorsements that mine has, I cannot understand why mine is not paid. I am a widow, with three small children to educate, and, of course, feeling my claim such a just one, if properly looked after, with every chance of success, I'm determined to use every means for success. It amounts, by their own estimate and the war valuation, to one hundred and fifty thousand. The claim has been approved by Secre-
212 tary of State, and I am willing to give half for the other. Every witness has been properly sworn, and all this is properly filed in their Court of Claims in D. C. I am confident, if placed in other hands, it will be successful this winter. I refer you to Mr. A. H. Peale to let you know who I am—widow of John Bemiss, residing at that time on our plantation, Lakeland, opposite Bayou Sara, where the Federal army camped; sister-in-law of C. T. Bemiss, Bemiss & Gordon, 30 Carondelet st., N. O., and niece of Prof. S. M. Bemiss, of Medical University, N. O. Now I am residing in this parish with my mother, Mrs. Wm. E. Edwards.

Will you be kind enough to give me a letter of introduction, and *my* items that might be of service to me, to Mr. G. T., of Washington City. I expect to leave La. very shortly, to make Canada my future home to educate my children; as my means is limited, I cannot do it here.
213 I want to take Washington C. in my route north. Any assistance you can, give me, in way of letters to Mr. Taylor. Did you have to go on to Washington to give testimony? Believe me any items of information you can give me will be highly appreciated and gratefully received by the widow and orphans.

With respect and regard—and pardon me for intruding so long upon your time and patience, and be charitable and make all due allowance for any and all shortcomings in this epistle, as I am just recovering from a severe attack dangue. It has left me completely prostrated, and very nervous; my hand trembles so I can hardly hold my pen. With many thanks, and trusting to your kindness of heart,

I remain, very respectfully,

Mrs. JENNIE BEMISS.

Plaquemine, Iberville Parish, La.

By Mr. TAYLOR:

Q. Take the date of those letters.

A. October 5, 1873, is the date of Rawle's; September 3, 1873,
214 is the date of Mrs. Bemiss' letter to Mr. Rawle. That letter contains the terms on which she proposed to employ Mr. Taylor, proposing to give him one-half of the claim. The first letter that we received from Mrs. Bemiss——

Q. (Interposing.) One moment. You say that that letter contains the proposal to give one-half of her claim for the prosecution of it. Do you refer to the letter that she wrote to Mr. Rawle?

A. I refer to the letter that Mrs. Bemiss wrote to Mr. John Rawle, and which he enclosed in his letter to Mr. Taylor. In that letter she explained the terms on which she proposed to employ Mr. Taylor. The first letter received by Mr. Taylor from Mrs. Bemiss in regard to the claim, and the first communication that we had from her was dated October 12th, Iberville Parish, La. In that letter which I now file she makes the statement of her claims.

215 By Mr. TOTTEN:

Do not state what it is; just put in the letter.

A. I merely give it as containing the terms—the proposal to pay one-half—as the main object of filing the letter.

The letter is filed herewith, marked "Exhibit Wood No. 1."

The WITNESS. (Continuing.) I find on reference to our letter-book that the reply to the letter of Mrs. Bemiss of that date (Oct. 12th) is dated October 21st, 1873.

By Mr. COX:

Q. You did not retain a copy of that?

A. We retained no copies of letters; we did not use our press.

By Mr. TAYLOR:

Q. State what it was.

A. That letter, I think, was written by Mr. Taylor; but I am judging of the contents by the second letter which we received from Mrs. Bemiss, which was acknowledging the receipt of that, and replying to the contents, stating that she had——

216 By Mr. TOTTEN:

(Interposing.) You had better not state that.

The WITNESS. I was stating, in reply to Mr. Cox, that in that letter she was thanking Mr. Taylor for accepting the terms which she had offered in her previous letter.

By Mr. TAYLOR:

Q. What is the date of our answer?

A. Her reply is dated October 27th.

(The letter is offered and filed herewith, marked "Exhibit Wood No. 2.")

By Mr. TAYLOR:

Q. What was the date of our reply?

A. The last exhibit I offered was her letter in reply to this one of the

21st of October, accepting the terms. The next correspondence was a letter addressed to Mrs. Bemiss, enclosing a power of attorney, a contract, and memorandum of agreement.

By Mr. TOTTEN:

Q. Did you write that?

A. Yes. The memorandum of contract is in my handwriting,
217 and my impression is that I wrote the letter enclosing the memorandum of agreement; and I know I wrote the agreement, for that is in my own hand. That letter enclosing the memorandum of agreement and the power of attorney to her to be executed was dated November 19th, 1873.

By Mr. COX:

Q. Have you a copy of that letter?

A. No, sir; we have retained no copies of letters.

Q. Do you know the contents?

A. I think it was simply enclosing the power of attorney, and the memorandum of agreement to be executed by her. The memorandum I had drawn up simply embodying the terms as proposed in her letter which I have referred to. I think likely that I suggested the necessity of having a power of attorney before we could proceed in the case, as I usually do that in such cases. When there have been other attorneys em-
218 ployed in the case we always require a power of attorney before we take any steps in the case. The next letter we received from Mrs. Bemiss was dated Nov. 25th, 1873, Pecan Grove Plantation, La.; and enclosing the papers referred to in my last letter (the power of attorney and the memorandum of agreement), executed by her. I offer this letter.

(The same is filed herewith, marked "Exhibit Wood No. 3.")

The WITNESS. (Continuing.) I would state that on examination of our letter-book I find that those letters of which I have spoken are the only letters written by Mr. Taylor or myself, or either of us, to Mrs. Bemiss, before she arrived in Washington, which was, I think, about the 4th of December, 1873. With the exception of a letter from her which I think was simply notifying us that she was on her way, that was the only correspondence which passed between Mrs. Bemiss and Mr. Taylor and myself in relation to the claim until her arrival in this city.

By Mr. TAYLOR:

219 Q. Will you please state who examined the papers in that claim, filed in the department after this correspondence?

A. I think I did. I was in the habit of attending to the business of examining the papers at the commission.

Q. What papers did you find in the files of the department there?

A. I think there were no papers on the files of the commission except the petition. No testimony whatever had been taken in the case.

Q. Did you advise Mrs. Bemiss after the examination you made, either by writing or verbally, that the case was nearly complete, and required only a little attention, and that it was the best you had ever seen?

A. I did not.

Q. What did you tell her on that subject?

A. I had no conversation with her in regard to that until she arrived in Washington.

220 By Mr. Cox:

Q. When was that?

A. That was just shortly after her arrival here, which was the 4th of December, 1873. I then told her, after looking over the papers, that she would have no chance for recovering anything for the property which was destroyed, which amounted to about $45,000—the items for destruction of sugar-houses and other property. The whole claim amounted to about $129,000, the balance of the claim being for mules and horses, cattle, sheep, hogs, sugar, molasses, fencing, and some other property, which I do not recollect now. I told her that she could only recover for such property as was actually appropriated to the use of the army, and of course the amount would depend altogether on the proof in the case; that we could not judge as to the recovery, of course, until we saw how much of that property she could show was actually used and appropriated; and
221 that the commissioners generally cut down the claims very largely, sometimes cut them down about a half; sometimes to a third, and even more than that. This I recollect telling her at the Metropolitan Hotel a short time after she came, among the first conversations I had with her in regard to the claim.

By Mr. Taylor:

Q. Did you conduct those conversations and manage the case?

A. Yes, sir; I did. I spent several days with Mrs. Bemiss at the Metropolitan Hotel shortly after her arrival, in going over the case with her, learning all the facts, ascertaining who would be the proper witnesses, their residence, and the facts necessary from which to draw proof of loyalty, &c.

By Mr. Cox:

Q. Did you know anything about the case, other than what appeared on the petition, when you first wrote to her enclosing the contract and the power of attorney?

222 A. I do not think I had ever examined the petition at that time. We had simply written and accepted her terms, and enclosed the memorandum of agreement and the power of attorney. I do not recollect that we had ever examined the case at all.

Q. You made her no representations, then?

A. None, whatever, sir.

By Mr. Taylor:

Q. Did you not consider it necessary to get the power of attorney before we interfered with the case at all?

A. Yes, sir.

Q. Was it or was it not our practice to do that?

A. Yes; that was our invariable practise.

Q. Were there any witnesses in the case sent up by Judge Ray?

A. Yes, sir; a short time after Mrs. Bemiss came, and after her own examination, I think there were four or five witnesses sent up by
223 Judge Ray; I do not recollect which of them—Col. Claiborne and Mr. Jewell, white witnesses, and two or three negroes. These I examined before the commission myself.

Q. Who had almost the exclusive management of all our cases before the commission in our firm?

A. I did.

Q. Did you ever know me to go down and examine papers in a case, and make a report in the matter in the first place?

The WITNESS. Before any evidence was taken?

Mr. TAYLOR. Yes.

A. No, sir.

Q. Whose duty was that, and who generally performed that duty?

A. I generally performed that duty myself.

Q. Did you not always perform it?

A. Well, so far as I can recollect, I know of no exception to it, unless it was during my absence.

224 Q. Do you know whether Mrs. Bemiss authorized and directed the employment of Judge Ray in that case, and the terms upon which he was employed?

A. I was present at the hotel at several conversations in reference to the employment of Judge Ray, between Mr. Hank, who was the agent of Judge Ray, and Mrs. Bemiss and myself; and Mr. Hank, who had just come up from Louisiana, stated that he was satisfied that Judge Ray would be willing to bring on the witnesses for 10 per cent.; and my impression is that Mrs. Bemiss assented to it and was very anxious to make the arrangment.

Q. How was that 10 per cent. to be paid, and by whom?

A. My impression is that it was to be paid by Mrs. Bemiss. I know that Mr. Taylor refused to pay it, as he did uniformly to make advances.

Q. I mean the 10 per cent. to Mr. Ray; I do not mean the ex-
225 pense about bringing up the witnesses. How was the 10 per cent. to be paid to Mr. Ray; out of what funds?

A. It was to be paid out of the money collected on the claim.

Q. Contingent?

A. Entirely contingent. Ten per cent. of whatever amount should be recovered from the Gover'ment.

Q. Was there any portion mentioned which Mrs. Bemiss was to pay and I was to pay?

A. Not at that time.

Q. You say it was not settled what each was to pay at the time?

A. My impression is that afterwards you agreed to pay 5 per cent. and she to pay 5 per cent.

By Mr. COX:

Q. You say afterwards; when was that?

A. I do not recollect how long after the employment of Judge Ray.

Q. Originally there was no agreement that Mr. Taylor was to pay anything?

226 A. Not that I know of, sir. I do not think he ever assumed to pay any portion originally, so far as I knew.

By Mr. TAYLOR:

Q. Do you know whether my proposition to pay any portion of that or any other fee was voluntary?

A. I know that it was. Your proposition to pay that, and the other 10 per cent. which she had afterwards contracted to pay Mr. Waterman, of New Orleans, an attorney who was to get up evidence in Louisiana, was

voluntary. I know that that was entirely voluntary on Mr. Taylor's and my own part. In conversation he said he thought it was but right and proper that we should assume that expense, although there had never been a promise made by myself or by Mr. Taylor; and Mrs. Bemiss, in the conversation in regard to the claim and in regard to the expenses, never intimated that she expected such a thing.

227 Q. Did Mrs. Bemiss at any time say to you that I was to pay her personal expenses or her expenses on the case?

A. No, sir.

Q. Did she not say that I was not to pay, and ask to borrow money from me to pay the expense?

A. I do not know whether she said that you were not to pay, but I know that she often applied to you to pay her hotel bills and other expenses, and that you as often refused; and that she has often applied to me to use my influence with you to have you relieve her necessities, not that she had any right to expect it.

Q. Do you know who paid her hotel bill in Washington the first time she came here?

A. I understood at the time that you paid it; I know that she stated that she had no funds to pay it. I understood that from herself.

228 She said she was out of funds, and applied to me to mention the matter to Mr. Taylor; and I told him that I was not able to assist her except to a very small amount, and I understood from Mr. Taylor that he had made the advance to pay her hotel bill and to take her on to New York. I do not know positively that he had, any further than from conversations with him at the time in the office.

By Mr. Cox:

Q. I understood you to say that you also understood from herself that he had paid it?

A. I do not know that I did from her, in regard to the hotel bill here.

By Mr. Taylor:

Q. You understood that she had no means whatever to pay with?

A. Yes, sir; and she applied to me for assistance, and urged me

229 to use my influence with Mr. Taylor, and I am satisfied that he paid it; he said that he did at the time.

Q. Did she request this money as a loan—as a matter of accommodation?

A. Yes, sir; that is my impression.

Q. Did she claim it as a right under the contract?

A. No, sir.

Q. Do you know that she complains of my management of her case, or our management of the case, at any time?

A. I recollect of reading several letters from her in which she expressed her gratitude to Mr. Taylor, not only for his kindness to her, but for his and my own services and zeal in the prosecution of the claim. I do not know that those were the words, but that was the substance of them. She expressed herself as perfectly satisfied. I have one letter here which I found in looking over the papers in which she expresses her entire

230 satisfaction. There are some other letters of a similar character which I have not been able to find. I will look over the letters and reserve the right to file those if I find them.

(The witness here offered a letter in connection with his last answer, which is filed herewith, marked "Exhibit Wood No. 4.")

Q. Do you recollect seeing any letters from Mrs. Bemiss dated from the Stevens House, New York?

A. I recollect your receiving letters from her while she was there, and either reading them to me or handing them to me, I do not recollect which.

Q. Do you recollect whether she stated in those letters that she had no money to pay her bill; that her baggage had been put into the street; herself and child?

A. Yes, sir.

Q. Do you recollect whether she applied to me for money to pay
231 her board bill at the Stevens House?

A. Yes, sir.

Q. Did she state anything about her baggage being locked up, and she could not get it?

A. She stated that her baggage had been seized, and she was unable to get possession of it, and compelled to apply to you to furnish her means to pay her bill and get her baggage.

Q. At what hotel were her letters dated next after the Stevens House?

A. My impression is from the Hoffman House.

Q. Do you recollect whether she stated there that she would have to call upon me for money to pay her bills and take her to Canada?

A. Yes, sir.

Q. State whether the character of the letters was very beseeching, &c.

232 A. I would state that they made a very urgent appeal, told a very pitiful story, and besought you to assist her.

Q. (Handing paper to witness.) Just state at this point whether that is the contract.

A. (After examining the same.) Yes; that is the contract.

Q. Whose handwriting is that in?

A. It is my handwriting.

Q. Please annex that to your deposition.

(The same is filed herewith, marked "Exhibit Wood No. 5.")

The WITNESS. I also offer this letter.

(The same is filed herewith, marked "Exhibit Wood No. 6.")

Q. I understand you to say, Mr. Wood, that you had examined this case originally, and had had the management of it. Will you state what had been done in the case prior to our taking charge of it?

233 A. There was nothing done so far as I know from which we derived any benefit in the prosecution of the claim except the filing of the petition. I know Mrs. Bemiss spoke several times about her former attorney, Mr. Bradford, stating that he had certain papers in the case, but we never saw him, never got any of the papers, never had any communication with him, and he never did anything in the case.

Q. Did you find any testimony or any papers, or any vouchers on file with the papers of any character or description?

A. None; no vouchers, no receipts; and no testimony whatever, had been taken in the case.

Q. Did the firm of Taylor & Wood then conduct the case, taking all the testimony, examining all the witnesses, procuring all the testimony through the assistance of those associated with them?

A. Yes, sir.

234 Q. Up to its disposition?

A. Yes, sir.

Q. Do you know whether it was a laborious or not a laborious case?

A. I think it gave us as much labor and trouble as any case in the office that I know of.

Q. Was it *it* not unusually troublesome and laborious case?

A. I think it was, sir.

Q. Was it a plain case or a very difficult case to manage?

A. Well, from the complications which arose after we had gotten our testimony in, and the efforts which were made to defeat the claim by different parties in Louisiana, I think it was a case that required a very great amount of attention and very nice management.

By Mr. COX:

Q. Did not the case require some attention also after it got before Congress?

235 A. Yes, sir; Mr. Taylor attended to the case there, and at intervals during my absense he gave it his attention before the commission. I know also that he gave it a great deal of attention even when I was here, by way of interviewing the commissioners, and conversations with them in regard to it, and arguing the various points in the case. He attended and was present at the taking of the testimony of Col. Holibird in the case.

Q. There was other testimony besides the testimony of those witnesses from Louisiana?

A. Yes, sir.

By Mr. TAYLOR:

Q. Are you engaged in many cases from Louisiana before the Southern Claims Commission?

A. Yes, sir.

Q. Will you please state what fees are generally paid in those cases?

236 A. I believe in all the cases, or very nearly all the cases that we have from Louisiana, the contract with the local attorney is for 50 per cent., he to pay the expense of taking the testimony or bringing on the necessary witnesses to Washington.

Q. How many cases do you think you represent from the State of Louisiana before the Southern Claims Commission in which there is an agreement to pay 50 per cent.?

A. Well, sir, I should say from 150 to 200; I cannot give the number exactly; I am satisfied that there are as many as 150, probably more.

Q. Who advised Mrs. Bemiss of the allowance of her claim and of the final passage of the appropriation bill in Congress?

A. I think I wrote her the letter.

Q. Did she respond to that letter?

A. No, sir.

Q. Did you write a second or other letters?

237 A. Yes, sir; I wrote, and then wrote again.

Q. Did you get any reply from her?

A. No, sir.

Q. Where did you next hear from her?

A. The next I heard was that she was at the Metropolitan Hotel in the city here.

Q. Do you know whether she called on us, or either of us, after that time in relation to her claim?

A. No, sir; she did not; not to my knowledge.

Q. Had she expressed any dissatisfaction at our management, or with either of us, in connection with it up to the time it was allowed?

A. None that I know of; in some of her letters she complained very much about her claim being cut down, but I think her letters generally were the other way; that she expressed great gratitude for our la-
238 bors and attention to her claim, and particularly for your kindness in assisting her.

Q. "Particularly my kindness in assisting her;" in what way?

A. Pecuniarily.

Q. Do you know whether she was consulted about accepting the award, or whether we would let it go over and try to get more with additional testimony?

A. I do.

Q. What was her reply on that subject?

A. She said she thought it best to take what she could get, and then rely upon getting something further by a special application to Congress.

By Mr. TOTTEN:

Q. Was that verbal or written?

A. It was written.

Q. Where is the letter?

A. It is in some of the letters written to us here. I would state, in reply to an inquiry from Mr. Taylor as to whether she would let the claim go over or take what the commissioners allowed her, that she de-
239 sired us to take what we could get; to do as we advised, and on no account to let the claim stand over. That was in the letter of November 3rd, 1875, which is Ex. No. 4 in the case.

Adjourned until Monday, Oct. 22, '77, at 2 p. m.

240 MONDAY, *Oct. 22nd*, 1877.

Met pursuant to adjournment.

Present: Mr. Enoch Totten, for the complainants; Mr. Walter S. Cox, for the defendants, and the defendant, George Taylor.

Frank C. Wood's examination resumed by Mr. TAYLOR:

Q. On day before yesterday, when we closed your examination, we were on a question as to the amount of services performed in this case. Will you please state what proposition of labor and attention in a case like this is made up of the examination simply of the witnesses.

A. Well, I think that the actual examination of witnesses constitutes but a small portion of the labor and particularly in this case. There
241 was a great deal of labor in the case in the way of correspondence, watching the case to see the reports of the *reports of the* Gover'ment agents, and the efforts of the claimant's enemies in their attempts to defeat the claim, and repeated interviews and arguments with the commissioners.

Q. Did this case require constant or only occasional attention from the time it came into our office until its final disposition?

A. It required almost constant attention for over two years, from the time we took charge of it until the case was disposed of. There was a great deal of correspondence in the case. A great many difficulties arose which required correspondence at various points and made repeated interviews with the commissioners necessary.

Q. Was this an ordinary case or was it a very difficult case to
242 manage?

A. Well, it proved to be a very difficult case to manage and to get through with, owing to the efforts that were made by the enemies of the claimant to defeat it. There was difficulty in getting the necessary proof.

Q. Did the claimant, Mrs. Bemiss, express any dissatisfaction with the management by ourselves or by myself prior to the final appropriation by Congress for its payment?

A. No, sir; she expressed herself as fully satisfied with our management of the case, and her letters up to about the time of the allowance of the claim contained expressions of gratitude for our "noble labors" in her behalf and express' her satisfaction with the case. That was the general character of her letters up to the close of the case and until I noti-
243 fied her that her claim had been awarded by the commission and approved by Congress, and that was the last we ever heard of her. She came on to Washington afterwards, I understood, but she never came to our office; never notified us that she had revoked our power of attorney until we got possession of the draft.

Q. Mrs. Bemiss states in her testimony that I agreed to furnish the money to bring on the witnesses and to pay all the expenses of every character and description. What do you know on the subject?

A. Well, I know that you had repeatedly refused to make any advances in those cases to bring on the witnesses for any percentage of the claim. I am satisfied that you never made any such representations to her. You never had any opportunity until after she came here; until after the contract was made. I modify that by saying that I speak of the cor-
244 respondence as found on our letter-book.

Q. Do you not know that I positively refused to make any advances to her?

A. I will state that at the time that Mrs. Bemiss came on here, in December, 1873, that the matter was brought up, and Mr. Taylor refused, as he always did in those cases, whenever I heard any proposition of the kind made to him, and it was then suggested by Mr. Hank, who was Judge Ray's agent, and who happened to be here, that Judge Ray would for 10 per cent. bring on the witnesses in the case.

Q. Do you recollect of my refusing positively to advance money to pay her expenses at the hotel also?

A. At first; but you afterwards, as I understood from you, did pay her expenses. In regard to the matter of expenses I would state that before I wrote the letter enclosing the memorandum of agreement, it was
245 suggested either by Mr. Taylor or myself in speaking of the matter, I think by myself, that we had better accept the terms which she had offered in her letter; that is, giving half of the claim for our services for the other half, and that we could then do what we thought proper in the case; that after we had examined and saw what the character of the claim was it might be necessary to get some one to bring on the witnesses and to pay

him a percentage for and other matters; that we had better accept it and have a margin to do what we thought was right and proper in the matter, as we did afterwards voluntarily assume and pay Judge Ray 10 per cent. for bringing on the witnesses, and Mr. Waterman, the 10 per cent. which she contracted with him to pay for his services there in Louisiana in looking up witnesses.

246 Q. Referring to the power of attorney, in answer to interrogatory No. 17, Mrs. Bemiss says: "Yes, it was sent by mail to me in Louisiana to be signed, as they wrote that nothing could be done until it was executed." Will you please state what was written at that time, as you wrote the letter, and also why the power of attorney was requested.

A. Well, it was our custom always to refuse to have anything to do with a case where other attorneys had been employed without first getting a power of attorney from the claimant; but I do not recollect now exactly what I said in that letter, though I presume from that statement that I did demand a power of attorney before we would take any steps in the case.

Q. In answer to interrogatory No. 22, Mrs. Bemiss, in speaking of the assurances of Taylor & Wood, says, "Yes, he told me that he had
247 examined the papers and it was one of the best claims he had seen; and when in Washington he assured me that I would likely recover eighty or ninety thousand dollars, and after the evidence was taken was stronger in his assurances, and Mr. Wood (then his partner I believe,) stated to myself and others that I would not recover less than that amount; and Mr. Taylor also so stated in one of his letters to me after I came to Canada." Please state whether any statements of that kind were made, so far as you know, either by yourself or by myself.

A. They were not made by me, and I do not know that any such were made by Mr. Taylor. I know that he could not have made any such representations, because there was nothing in the case on which he could base them, no testimony in the case, simply a list of items there;
248 and I told her at the time that a large amount of that claim which was for the destruction of property could not be allowed by the commission, and that the other items would be very much reduced; that the commissioners usually cut them down very much, sometimes to a half and sometimes to a third of the amount claimed.

Q. The claimant says: "And after the evidence was taken was stronger in his assurances; and Mr. Wood (then his partner), I believe, stated to myself and others that I would not recover less than that amount." Did you make any such statement to her or to anybody else?

A. No, sir.

Q. On the contrary, did you not state that she could not recover so much?

A. It is my impression that I did.

Q. I believe I asked you yesterday, Mr. Wood, whether you had not had almost the exclusive examination of this case when in the city,
249 and whether you had not informed her that you had found nothing on the record or the calandar except the petition itself?

A. There was no evidence on the file. No testimony had been taken in the case. There were no vouchers and no receipts of any kind. The whole claim had to be proven up. I could not be positive that there was

no other paper except the petition. There might have been, as there are sometimes, letters of protection from military officers, but there was nothing material on file. In regard to the whole testimony, everything had to be proven up from the beginning.

Q. In answer to interrogatory No. 23, the claimant says: "Taylor & Wood told me that they found all the papers to their hands, properly filed, and they would have no trouble, but just to go ahead." Is that true, so far as you are concerned?

250 A. No, sir; I made no such representation. On the contrary, I told her that of course she would have to prove the claim up by bringing on witnesses.

Q. Mrs. Bemiss says in several of her answers here that we kept her in Washington over two months and then sent her to New York and detained her there three months under heavy expense at both places. Will you please state whether she was detained here after the testimony was in, or whether she was sent to New York by us and detained there for any purpose whatever; and further whether her testimony in this particular is true?

A. She came, I think, about the 4th of December, 1873, and as soon as we were notified—the next day or a day or two afterwards—I went down and went over the whole case with her, getting all the information
251 that I could; and I think she was examined before the commission in a few days after she got here. I do not know how soon; and then I wrote to Judge Ray and arrangements were made to bring on other witnesses, and she concluded to remain here until they came on. I do not know how long it was after that, but I do not think it was more than two or three weeks; it may have been a little longer, but I am not positive as to the time; but she remained here until those witnesses were examined, and was then re-examined herself before the commission. I do not know of any further cause for any further detention of her here or of any reason for her being detained in New York at the hotels. We, so far as I know, were through with her; and I do not know that she
252 was advised to remain in New York at a hotel or to remain here. I never advised her to do so, and I have no knowledge of Mr. Taylor's advising her to do so. I do not know of any necessity or occasion for it.

By Mr. Cox:

Q. She says that she gave you the names of many witnesses more than were examined and wanted them brought on, and you told her that those that were examined would be sufficient. What is the truth about that?

A. I do not think that is true. I know that after we had taken the testimony of the witnesses who had been sent on, that we were very anxious to procure further testimony as to the property if we could procure satisfactory witnesses. I know she did give the names of a number of witnesses, but we were unable to find them—unable to ascertain their whereabouts—some officers in the Army.

253 Q. Did you make any exertions to find them?

A. We did, sir.

Q. How many witnesses altogether were examined?

A. The claimant was first examined, and then there were five other witnesses; I think two white witnesses, Mr. Claiborne and Mr. Jewell, and

I think three colored witnesses; I am not certain whether it was two or three; and then Col. Holibird was examined, I think twice. I do not recollect of any other witnesses now.

Q. What do you know about the contract with Waterman?

A. I do not know anything about that, sir; any farther than what I have seen. I was in Europe at the time that that contract was made.

Cross-examined by Mr. TOTTEN:

254 Q. How long were you engaged in the examination of witnesses before the commission?

A. Well, sir, the first examination of Mrs. Bemiss, I think, occupied the best part of the day. We commenced about 11 o'clock, probably, but I do not recollect exactly the length of time it lasted, but it was several hours. The next examination of witnesses, I think, occupied the whole of another day.

Q. That is the examination of the five witnesses; they were examined on another day?

A. Yes, sir.

Q. Then how long did it require for you to examine Col. Holibird?

A. Col. Holibird was examined by Mr. Taylor.

By Mr. TAYLOR:

Q. Then she was re-examined, was she not?

A. Yes, sir; she was re-examined at the time the second lot of witnesses were re-examined.

255 By Mr. TOTTEN:

Q. Can you give the date when the case was finally before the commissioners?

The WITNESS. What do you mean?

Q. Finally argued. Was the case set and heard regularly as a court hears cases?

A. The commission does not hear arguments, orally, at the time. It is done by interviews with the commissioners. The case was set for hearing at different times, and continued.

Q. Was there any written arguments filed?

A. No, I think not; the arguments were made by interviews with the commissioners.

Q. Well, did you have these interviews with the commissioners as a commission, or with the members wherever you could catch them?

256 A. With the members. They were made by Mr. Taylor.

Q. I am speaking of your own services. How many interviews did you have with them?

A. I do not recollect. I have conversed with the commissioners several times.

Q. You say you filed no written argument?

A. No, sir; no written argument.

Q. Did the firm of Taylor & Wood agree to advance any costs whatever in the case?

A. None, whatever.

Q. Who employed Judge Ray?

A. Well, I cannot recollect, as I stated in my testimony day before

yesterday, whether Mrs. Bemiss made any positive contract about that. I know that Mr. Hank, the agent of Judge Ray in other cases, was here at the time in the hotel, and when the matter of bringing the wit-
257 nesses on came up, I recollect having conversation with him and Mrs. Bemiss at the hotel. He suggested that Judge Ray would send on the witnesses for 10 per cent., I think, but I know that she was anxious to make that arrangement, but whether she actually made the contract or not to pay it out of her own portion I cannot remember distinctly, but my impression is that she did.

Q. Well, can you state positively that the firm of Taylor & Wood did not agree to pay him at that time? I want to find out whether you made a bargain with him or not to do this work, and to furnish these funds and these witnesses.

A. I think I wrote the letters myself to Judge Ray, stating that if he would bring on the witnesses he would receive 10 per cent. of whatever was recovered on the claim.

258 Q. On whose authority did write that?

A. Well, as I said, I do not recollect whether it was on a contract or on authorization from Mrs. Bemiss, or whether we did it without that.

Q. Well, was the 10 per cent. to be paid out of your 50 per cent. or out of her 50 per cent.?

A. I do not recollect whether she made any contract for that purpose or not; that is, to pay the 10 per cent. out of her own pocket. I simply wrote to him that he would be paid 10 per cent. for bringing on the witnesses.

Q. You do not know whether your were to pay it out of her 50 per cent. or out of your 50 per cent.?

A. Well, I think that we would have paid it if she did not.

Q. And if she did you would not?

259 A. In this connection I will state that when we first agreed to take this case, Mr. Taylor and myself talked it over and concluded that we would take it at 50 per cent. for our services; that we would have a margin then to pay, if it was necessary, to bring on witnesses. We would have done it, but there was no understanding at that time, as I recollect, nor a positive contract with Mrs. Bemiss that she would pay this out of her own portion of the claim when recovered.

Q. Are you a member of the bar of the supreme court of the District of Columbia?

A. Yes, sir.

Q. Is Mr. George Taylor?

A. I am not certain whether he is or not.

Q. How long have you been a member?

A. I have been a member since 1869, I think.

260 Q. What is your age?

A. Forty-two. In regard to the employment of Judge Ray, I wish to make a little fuller statement. All I recollect in regard to that now is that I wrote to him that he would be paid 10 per cent. of the amount that was recovered.

Q. Have you got that letter?

A. No, sir; we do not keep copies of our letters. My impression is that Mrs. Bemiss had agreed to pay that; but I am not certain about that.

Redirect by Mr. TAYLOR:

Q. Do you recollect a conversation that we had on the subject of not allowing her to pay the whole of it; that it would not be right?

A. Yes, I do. That conversation was after the letter had been written and the contract made with Judge Ray. In the conversation Mr.
261 Taylor said that he did not think it would be right for her to pay any more than the 50 per cent; that he thought perhaps that we should pay that, and that, I think, was a positive understanding between Mr. Taylor and myself all along, that she should not pay for bringing on her witnesses.

F. C. WOOD.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

Adjourned to meet at half past 2 to-morrow at the Hooe Building.

262 TUESDAY, *Oct.* 23*rd*, 1877.

Met pursuant to adjournment.

Present: Mr. Enoch Totten, for plaintiffs; Mr. Walter S. Cox, for defendants, and the defendant, Mr. George Taylor.

Hon. ORANGE FERRIS, produced, sworn, and examined on the part and behalf of the defendants, as follows:

The WITNESS. I am one of the Commissioners of Claims; have acted as such for over six years. Mr. George Taylor has been a practising attorney and claim agent before this commission. He asked me to state what I knew in regard to his services for Mrs. Bemiss, who had a
263 claim before the commission. I do not recollect Mrs. Bemiss' Christian name nor the number of the claim, although I knew the lady at that time. She was here quite a number of times. Mr. Taylor also appeared; he was acting as her attorney and counsel in the case. He has stated to me that she alleged he performed no service, or services of very little value. I know Mr. Taylor to be a very energetic and faithful attorney, generally, in his cases, and he was particularly so, I thought, in that case of Mrs. Bemiss'. I know he appeared here many times, and manifested great anxiety and a great deal of earnestness in the prosecution of that claim. I think it is questionable whether any large claim has been prosecuted more vigilantly before this commission than that of Mrs. Bemiss. Mr. Taylor was before the commissioners a number of
264 times, and I do not know but his partner, Mr. Wood, was also here. that I do not remember about. I remember Mr. Taylor appeared;

By Mr. TAYLOR:

Q. Please state whether it was a case requiring rather more than usual attention and labor; in other words, whether it was not a different case.

A. Well, it was not a case that was free from difficulties, by any means. It was surrounded by difficulties, and there were many things that appeared in the case which required explanation, and it was no easy matter to secure the attendance of witnesses to explain some things that were adverse to the claim. It was successful, and a favorable report was made in the case. My associate, Judge Aldis, wrote the report in the case, and

265 knows a little more about it than I do, although the case was one of that marked character which I could not very well forget.

Q. Did you have any conversation with Mrs. Bemiss while she was here in connection with the case?

A. I cannot say that I did, excepting what passed in the commissioners' room while the claim was being investigated and some of the witnesses examined. That conversation was very casual—very limited. I do not now call to mind that she talked to me personally about it. I know she on one occasion burst into tears and seemed to be very much excited, and thought there were some things proved that were not true, and was apprehensive that she would fail to recover. I will say this, that I do not think she was much more interested than Mr. Taylor, or manifested much
266 more interest in the case.

Q. How long did these attentions and labors in that case continue?

A. Several months, if not years; the record will show, I suppose; (referring to the record) from January 9th, 1874, until December, 1875, when our report was made to Congress, nearly two years, and that after the first testimony was taken. What the attorney did previous to that time I have no personal knowledge of, excepting as the papers appear filed in the case. Messrs. Taylor & Wood appear as attorneys of record.

Q. What proportion of the trouble would you estimate the simple examination of witness' compared to the general care and management of such a case, hunting up witnesses and parties connected with it, consulting witnesses, &c., presenting the various view' necessary to call the at-
267 tention of the commissioners to the points in the case, and protecting it from the various attacks which had been made upon the case by those hostile to it?

A. The mere examination of witnesses before the commissioners forms but a small part of the labor required for the prosecution of a claim.

Q. Were there not at one or more times very steady and persistent attempts made to defeat the claim?

A. Well, I cannot answer that by yes or no. I know there was evidence in the case against it, and I know there was some opposition to the claim from some source. Judge Aldis may remember that better than I, as he had the papers in his hands and knows really more about
268 the details of the case than I do.

Q. Do you know that there was anything else done in that case by any other attorney or attorneys in behalf of the claim; and, if so, what?

A. I have no recollection of any other attorney or attorneys appearing in the case. There are so many of these claims in which different attorneys appear in the course of the prosecution that it is difficult for me to speak from recollection, but I am strongly impressed that in this particular case no other attorneys appeared excepting Messrs. Taylor & Wood.

Cross-examined by Mr. TOTTEN:

Q. You spoke about some opposition, judge, to the case. I refer
269 to that that is outside of the depositions and testimony; to what do you allude?

A. Nothing outside of the testimony that I know. There was testimony in the case adverse to the claim.

Q. That testimony was developed somewhat by the officers of the United States defending its interest, was it not?

A. Well, I think, perhaps, it was; I do not know. I did not mean to say that any individual or person disconnected with the Government appeared to oppose the prosecution of that claim.

Q. Do you know of any opposition coming from any other than an authorized source?

A. No; I do not.

Q. It was the ordinary opposition that came from officers who
270 were charged with the duty of making opposition, was it not?

A. Yes, sir.

ORANGE FERRIS.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

271 Hon. ASA O. ALDIS, produced, sworn, and examined on the part and behalf of the defendant, as follows:

By Mr. TAYLOR:

The WITNESS. I am requested by Mr. Taylor to give my testimony in the matter of the claim of Mrs. Bemiss, as to his diligence and services, so far as I know.

I am one of the Commissioners of Claims. When the claim was first heard and the testimony first taken, the papers were assigned to me, so that having charge of the papers it became my duty to write the final report in the case, which I did. It is my impression that Mr. Wood instead of
272 Mr. Taylor (but it might have been Mr. Taylor) first appeared here with the witnesses to be heard in the case. I recollect that there was a very respectable and venerable old man who was a witness; I cannot give his name; a man of high standing, and another gentleman, who had been a leading politician and editor of a paper; and then there were some colored witnesses, besides Mrs. Bemiss herself. I do not remember how long we were examining these witnesses; they were examined on the first of May; I do not know how many days, but Mr. Andrews' minutes will show exactly the number of the days, and perhaps you had better take his testimony. The case was then continued, as we always did in large cases of that kind, for this was a case where the claimant amounted
273 to one hundred and twenty thousand dollars or thereabouts. We decided to refer it to one of our special agents and have him to go to the vicinity and investigate the claim. It was first referred to Mr. Geo. Tucker; but Mr. Tucker had so much work to do that he did not make much investigation in it; I think he made some investigation, but not much. Then it continued along, I should think, for perhaps a year (I cannot be specific about dates without stopping to call them to my memory), and finally we directed Mr. Enos Richmond, who was an agent in Louisiana examining claims, to go to Point Coupé to investigate this claim, both as to the loyalty of the claimant and as to the property taken. I gave him written instructions, which, I think, will be found, or ought to be found, among the papers in the case. I gave him a list of the witnesses, as we always do when we examine parties. That is a rule we always
274 endeavor to act upon. We require to give us references to

respectable and leading persons in the vicinity, who will testify as to the loyalty, so that when the agent goes to a place he will be able to visit and call upon those persons who can give him information. I think, if you will look up the papers, you will find some instructions which I gave to Mr. Richmond, with reference to the various witnesses furnished by Messrs. Taylor & Wood, or Mrs. Bemiss, for the purpose of investigation. Well, Mr. Richmond went there and made some investigation—saw some of their witnesses; but as it was a larger case, he did not feel satisfied with the th'roughness of his investigation, and reported to us what he had done and wished to have more time to further examine. The case was then delayed for further examination. Mr. Richmond went there a second time and made, I should think, from his report and state-
275 ment to us, a pretty thorough examination of the case.

Mrs. Bemiss, in her testimony, stated that this property was taken by Gen. Hurlbut, as I understood her; that the mules and the cattle, oxen, and various things were taken by General Hurlbut. It seems that I was entirely mistaken about who the person was, as I supposed the person referred to was Gen. Hurlbut, of Illinois, who was then member of Congress, so I delayed making the final report until I could see him, as I knew he would be on here at the opening of Congress, and I wanted then to see him and find out from him about it and perhaps take his testimony. But the case had impressed all of us favorably. We thought it was a case in which loyalty was fairly proved and that we must allow something. I called on General Hurlbut, the member of Congress from Illinois, and told him about
276 the case and what I wished to ascertain. "But," says he, "I am not the man at all. The man is Gen. Holibird, who was quartermaster-general of the Department of the Gulf." I had confused the two names. I was not at that time aware that General Holibird had been quartermaster-general of the Dep't of the Gulf. I remarked to him, "I am much disappointed, as I intended to report at this session of Congress. If we have to take General Holibird's testimony it will have to go over." Then I went to General Townsend to ascertain where Gen. Holibird, quartermaster of the Dep't of the Gulf, was. He was in Texas, and I think at San Antonio. I told Gen. Townsend that it was a very large claim; that it was important to have Gen. Holibird's testimony, and that we could not report the case to Congress without it; that it had been delayed now for a year or two. I do not know the exact length of time
277 that I stated; that Mr. Taylor was very urgent to have it reported immediately to Congress, and that I should be blamed if I did not get it in. General Townsend was very obliging indeed; he immediately sent off a long telegram to General Holibird about the case, and the final result was that he directed General Holibird to come on here; but he could not get here so that we could get the report in at that session of Congress, and it went by for another year.

Mrs. Bemiss had testified that she saw Gen. Holibird and had a conversation with him, and that he told her so & so and so & so, as you will see by referring to the testimony; I do not remember the details of it now, but I recall the general statement. I thought it was a very important thing in the case to get these two parties who were the chief
278 actors in the matter face to face and to see what they would say to each other. I told Mr. Taylor that General Holibird was coming,

and that as Mrs. Bemiss had professed to have conversations with him at the time the property had been taken, I thought it very desirable to have them face to face and see what they would say about it. I do not know what Mr. Taylor did. I supposed of course he wrote to his client and told her to come on. At any rate, on the day fixed for the hearing of General Holibird he was here, and Mrs. Bemiss was here, and Mr. Taylor was here. I only know that General Holibird staid here, or rather came on, and we extended the time a month or so, and that he then went up North to see some relatives, and then he came back. On this second appearance of General Holibird here in town, he was examined,
279 and all the parties were present. The examination was held in my room. Mr. Anden was there and took the testimony. I remember that one of Mr. Anden's reports most mysteriously disappeared. We took the testimony of General Holibird. All of who know General Holibird know that he is a pretty fair, prompt, and positive witness; and he swore to the mules stronger than Mrs. Bemiss. In fact, from his testimony, I think about a thousand dollars was added on the mules. He swore to them as being the best quality of mules, worth $175 a piece, I think, but he totally denied taking either cattle or oxen, which she swore to; and that brought them into direct contact on that point. He denied some things, and then again recollected and admitted others. If I remember aright he said about the sugar that he did not order it to be taken, but that there were gun-boats there; and he told their position,
280 and the position of the sugar-mill, and so many facts in connection with the sugar that although as he said, he did not order the sugar to be taken, and did not know of any being taken for the use of the Army, and did not think there was any taken, still his statement of the facts was such that we were satisfied after all that the sugar was taken, though we did not allow but for a half or a third of the sugar, because we believed a good deal of it was burned up when the building was burned, and a good deal of it was plundered by the negroes.

After the examination of General Holibird we again examined Mrs. Bemiss, and they examined each other, and there was a great deal of conversation about it, and the scene was pretty animated at times. I should think it lasted two or three days. Mr. Andem's notes will show.
281 Q. Please state in that connection whether I was here all the time, participating in the examination and the conduct of the case.

A. You were here, but I do not know that you were here all the time; you might have stepped out once in a while, but you were the active attorney and managing the case. I must say that you were very attentive and diligent, so far as I could judge, in the matter.

Well, the result was we got through with Holibird's testimony, and Mrs. Bemiss went off. I do not think there were any other witnesses examined at that time except Gen. Holibird, but that took, I should think, three or four days. Mr. Andem's minutes will show. That was the turning-point of the case. We substantially decided the case first and mainly upon General Holibird's testimony, and then, secondly, upon the
282 testimony of the other witnesses in the case and the corroborating circumstances that surrounded it. The report which we drew up and signed will show our views. Judge Ferris was present all the while, as well as myself. I do not remember about Judge Howell being here all

the time. Judge Ferris and myself took all the testimony, and we consulted about it fully and constantly, and the result of it was that the claim was allowed. I can only say that so far as I could judge Messrs. Taylor & Wood did their full duty as attorneys in the case; that they were faithful and diligent, and I should not have supposed that Mrs. Bemiss could complain of them. How much was done outside I cannot say anything about; I only know what was done in what we call the court. The labor and time they *ap*pended upon the case out of the court I have no means of knowing anything about.

283 Q. How long did our labor and constant attention to this case continue?

A. Well, sir, Mr. Andem's minutes will show best; that is to say, commence with Andem's minutes at the first taking of testimony, and then extend the time to the time we filed our report, and I should think it would be from two to three years in all that you must have been attending to the case. Of course you did not spend all your time on one case. The case was pending before us that length of time, and you or your partner, Mr. Wood, were always present; and I have no recollection, as Judge Ferris says, of any other counsel being in the case besides yourself and Mr. Wood. If there were others, I have forgotten it.

Q. Please state whether our attention and labor continued during that whole period at various times?

284 A. Whenever the case came up either you or Mr. Wood attended to it, and I should think that you attended to it much more than Mr. Wood. Not only that, but frequently you would apply to us to have something or other done about it; I do not remember what now.

Q. Will you please state, in your estimation, what proportion of the labor in that case, or in such cases, the mere examination of the witnesses would bear to the general management and labor in the case?

A. Well, it is impossible for me to tell, Mr. Taylor. I do not know how much time and labor could be required to see these witnesses. The witnesses lived in Louisiana, and of course somebody would have to see them there; would have to know what they would testify to; would

285 have to correspond up here and find out the time fixed for the hearing. You would have to get the witnesses to come on here; then, when they came on here, there would be the duty resting on counsel to know what they would testify to. A lawyer who does not see what his witnesses are going to testify to does not do his duty. It is very difficult, indeed, to tell what proportion the examination of the witnesses would bear to the general management; cases would differ, I think.

Q. Take the attention, for instance, in this case, of my partner and myself: our constant watchfulness during the progress of the case, our interviews with commissioners, our examination of papers, our examination of reports made by your special agent, and every other duty connected with it while in the commission, what would be the proportion of the

286 mere examination of the witnesses involved, compared with that general and more extended attention and labor in the case?

A. Well, in answer to that I can only say that any intelligent lawyer or judge, accustomed to prepare cases for trial in court, would perhaps form just as good an opinion as I can. It depends upon just how much had to be done out of court and how much in court. If I were going to

give an opinion about it—and, after all, it is nothing but a mere opinion—I should think the labor of preparation outside would be a good deal more than the labor of examining the witnesses.

Q. Take this particular case, with your knowledge of it. Could you form an opinion of what proportion the mere examination of the witnesses would bear to the labor performed by the attorneys in the case—

287 by my partner and myself—attending to the examination of various papers, the reports of your special agents, and the various things throughout the case.

A. Well, it would be very difficult for me, Mr. Taylor, to form any just opinion as to the relative amount. As I have stated, all that I can say would be mere opinion, and of course would not be of very much value, because I do not know what was done outside.

Q. I am speaking of the duty inside.

A. I say I do not know how much you did in this matter beyond examining the witnesses, and so on. I know what you did in examining the witnesses in the court-room before us, but what was done out of the court-room I cannot tell; but my opinion would be it must have involved a great deal more labor than the mere examination of witnesses.

288 Q. Will you be kind enough to give us your opinion about the character of this claim; whether it was an ordinary claim requiring little attention or whether it was not involved in very considerable difficulty and required very nice and constant attention to secure a proper result?

A. It was a large claim—about $130,000—if I remember aright. It unquestionably required diligent and faithful attention in procuring the testimony and proving the claim. Being a large claim the action of the Government in examining and investigating it, as I have already stated, was much more extensive and thorough than in a small claim which would not warrant any such investigation; and that, of course, threw upon you increased labor in preparing it on the behalf of the complainant.

289 Q. Will you please state if there were any unusual difficulties in the way, any opposition to the claim which required prompt attention, and gave the attorney extra and un'sual care?

A. Well, the most serious objection and opposition to the claim grew out of the examination of General Holibird and information that we got from him, and the necessity of course which you were under to examine him in the presence of Mrs. Bemiss and Mrs. Bemiss with him. That struck me as the turning-point of the case and one of its greatest difficulties. Afterwards, as Judge Ferris alluded to in his testimony, opposition came up through the detective service here. That required attention, but that amounted to nothing in the end. It was an important case, of course, and required attention.

290 Q. Had you any conversation or various conversations with Mrs. Bemiss?

A. Oh, yes; I talked with her several times about her case?

Q. Did she say anything about her attorneys in the management of the case?

A. I do not remember of her ever speaking disparagingly of them, but, on the contrary, she always spoke of them with pleasure or approval, so far as I recollect. I do not recollect any particular conversation.

Q. Do you recollect Mrs. Bemiss writing to you to beg you use your influence with me to have me advance her money?

A. Yes; Mrs. Bemiss lived in Canada, and she wrote me three letters, or rather they were addressed to the commissioners. They were not addressed particularly to me, though the letters were probably
291 addressed to me on the outside. (Turning to Judge Ferris.) I think I showed one or two of those letters to you, Judge Ferris.

Judge FERRIS. Yes.

The WITNESS. The substance of those letters was that she was in great distress and poverty and want of money, and wanted me to see Mr. Taylor and use my influence with him to have him advance her money, but I could not do that. Mr. Taylor came to me about it, and I told him, says I, "Mr. Taylor, we never tell any person whatever that a claim will be allowed until we report it to Congress." That was the substance of it. Because her idea was that if we only said to Mr. Taylor that we would allow her claim that then he would advance her money. But Mr. Taylor did not press me about that because he know our custom, and would not ask me to do a thing that was improper. Well, the lady
292 wrote two or three letters, letters that would quite move our feelings on account of her poverty, as she stated, her three children, &c.

Q. Do you recollect that you put some questions to Mrs. Bemiss on examination in regard to the employment of attorneys and the substitution, &c.?

A. If I did, it is on record; Mr. Andem's minutes will show; I cannot now recollect it. I dare say you recollect it.

(Mr. Totten requested that the page of the record in reference to Mrs. Bemiss' case, at this point, be incorporated in the testimony of the witness by his reading it, and having it taken down by the examiner.)

The WITNESS. I have in my hands register of claims No. 15. It contains the registry of all the claims which came before us within a
293 certain space of time, which are in the shape of docket entries. There are various other volumes which are, of course, open to inspection of everybody. The page I have before me reads as follows:

"Date, September 21st, 1871. No. 7316. Name, Mrs. Laura Jane Bemiss, executrix of John Bemiss. Residence, Point Coupé, La. Subject-matter, cattle, mules, horses, forage, provisions, &c., taken by the Army in Louisiana. Amount of claim, $129,475. Amount allowed, $27,310. Attorneys, D. T. Barnitz, Washington, D. C."

Then the following are the entries in writing by the clerks:

"December 3, 1873, power of attorney filed in favor of Taylor & Wood; January 9th, 1874, case heard and continued. Testimony of Jan. 9th, 1874, received from stenographer; Feb'y 21st, 1874, case heard and continued; Feb'y 25th, assigned. Testimony Feb'y 21st received from stenographer; May 28th, 1874, measurement of corn-crib filed;
294 January 4th, 1875, parol testimony taken in behalf of United States, and case continued; January 5th, 1875, ordered, on personal application to commissioners, that Messrs. Taylor & Wood be formally entered as attorneys in the case."

Here I will stop before reading the other entries to make a remark. I recollect that we did make that order now, but I had forgotten it; from

Mr. Taylor's calling it to my memory, and seeing the entry here: "On personal application to commissioners," I have no doubt that that is right.

(Continuing to read:) "January 5, 1875, additional testimony taken on behalf of the complainant; January 9th, 1875, power of attorney filed in favor of George Taylor; December 20th, 1875, returned to Congress. Allowed $27,310 by private act of August 14th, 1876, and papers filed with the Third Auditor."

That comprises that there are on the register. I recollect that
295 at the time that Holibird was here Mrs. Bemiss was here; some question came up, I do not remember precisely how, in regard to Messrs. Taylor & Wood, or Mr. Taylor being the attorney of Mrs. Bemiss, and I do recollect that it was stated at the time that Mr. Taylor ought to be regarded as the only attorney in the case; I had forgotten about this other man Barnitz. I know that it was said at the time that Mr. Taylor ought to be the only attorney in the case, and an order was made accordingly, and from the nature of the entry on the registry I have no doubt that it was made on the personal application of Mrs. Bemiss. Any farther remembrance of the details I am unable to recall.

A. O. ALDIS.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

296 CHARLES F. BENJAMIN produced, sworn, and examined on the part and behalf of the defendants.

By Mr. TAYLOR:

Q. Please state what position you occupy in the Southern Claims Commission?

A. I am chief clerk of the Southern Claims Commission.

Q. Is it your duty to receive and file and generally superintend the cases?

A. It is.

Q. Do you recollect the case of Mrs. Bemiss and her children against the United States?

A. I do.

Q. Who was her attorney, or who filed her petition?

A. I should have to testify from the record.

Q. Please testify from the record?

297 A. (Referring to the record.) D. G. Barnitz, of Washington, D. C.

Q. Please state what he did in this case?

A. I do not know of his doing anything besides filing the petition, and I only know that he filed it from finding his name entered as attorney of record.

Q. Were there any other papers, documents, testimony, or evidence filed by Mr. Barnitz or any one else preceding the employment of Taylor & Wood?

A. I think not, and the record would indicate not.

Q. What was its exact condition when Taylor & Wood took charge of the case?

Mr. TOTTEN. Question objected to.

A. Testifying from the record, I should say that nothing but the petition had been filed.

Q. Had any testimony been taken in the case?

298 A. From the record I answer no.

Q. Do you recollect of any being taken?

A. I do not.

Q. Do you recollect of the filing of any papers, vouchers, or evidence of any character or description prior to the connection of Taylor & Wood with the case?

A. I do not.

Q. Do you know of any duties as attorneys that were performed in the case by any other attorneys except Taylor & Wood?

A. I do not.

Q. How long did our duties in connection with that case continue?

A. I think about two years, as I now remember.

Q. Were those duties and attentions almost continuous during that period of time?

A. I would say that they were frequent and almost continuous for nearly if not quite a year; I cannot say for the two years.

299 Q. (Handing a letter to the witness.) Did you address that letter to myself at any particular time?

A. (After examining same.) Yes, sir; that is my writing throughout.

Q. Does that letter contain a true statement of the services of Taylor & Wood in that case, as far as you could state them in that brief letter?

A. It contained a true statement of the services rendered as I then remembered them. My recollection was better then than it is now.

(The letter is offered in evidence and filed herewith, marked "Exhibit Benjamin No. 1.")

Q. You have charge of this record, have you?

A. Yes, sir.

Q. This contains a true and faithful record, as far as it goes, of the dates of the proceedings?

A. To the best of my knowledge it does. We have never found

300 any serious errors of omission from the record.

Q. What proportion of the labor in this identical case as bestowed by the attorneys, Taylor & Wood, would the simple examination of the witnesses of the case bear compared with the general management of it —the examination of the various reports made by the special agents and all the other incidental duties growing out of the case?

A. Well, the mere examination of the witnesses is not the greater part of the labor in a large case.

Q. What proportion of the labor does it bear to the other duties?

A. I should say not over one-third, with a liberal estimate.

Q. Was that about a fair estimate in this particular case?

301 A. I could not answer, because I do not remember how much testimony was taken.

Q. Well, according to your judgment and your knowledge of the various cases pending, was this a case of usual or more than usual labor and requiring the usual or more than the usual attention on the part of the attorneys?

A. I think it a case that required very much more than the usual attention.

Q. Did it receive all the attention and labor that its particular character and its necessities required from the attorneys employed?

A. So far as I know the necessity, it did.

Cross-examined by Mr. TOTTEN:

Q. How many depositions were filed in this case?

A. I could not tell, sir, from recollection.

302 CHAS. F. BENJAMIN.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

Adjourned to a date to be fixed.

303 MONDAY, *Dec. 24th*, 1877.

Met pursuant to notice.

Present: Mr. Totten, counsel for complainant; Mr. Cox, counsel for defense, and Mr. George Taylor, one of defendants.

Whereupon P. E. DYE, a witness of lawful age, was produced, sworn, and examined on the part and behalf of the defense, as follows:

By Mr. TOTTEN:

Q. Please state your residence.

A. No. 513 11th street northwest, Washington City.

Q. What is your business?

A. I am a lawyer.

Q. Are you engaged in prosecuting claims in the Southern Claims Commission?

A. That is one branch of my business.

Q. What are the usual fees in ordinary cases for prosecuting claims there?

A. From 25 to 30 per cent.

304 Q. What are the ordinary customary fees in cases where all the expenses of bringing up witnesses and advancing matters are defrayed?

A. 50 per cent.

Q. Have you a considerable business before the commission?

A. Well, a very considerable business.

Q. Are those the fees that you usually receive from your clients?

A. Those are the agreements with all my clients where they are from a distance, and I employ an associate to look after taking the evidence, and the like.

Q. 50 per cent.?

A. Yes, sir.

Cross-examined by Mr. TOTTEN:

Q. Where do you reside, Mr. Dye?

A. 513 11th street.

Q. How long have you resided in Washington?

305 A. Since 1870.

Q. Are you a member of the bar here?

A. I am.

Q. How long have you been a member of the bar?

A. Well, over four years of this bar.

Q. From whence did you come when you came here?

A. I came from Iowa.

Q. How many cases have you on the docket before the Southern Claims Commission?

A. I could not tell unless I examined; I suppose I have twenty-five now; I have a good many disposed of.

Q. How many have you collected in all?

A. I could hardly tell that.

Q. Well, 25 or 50?

A. I should hardly think so many.

Q. Well, 10?

A. Yes; I should say probably more.

306 Q. What was the biggest award you ever got there?

A. $45,161.72.

Q. What fee did you get in that; what percentage as a commission?

Mr. TAYLOR. I object to these special fees, because they do not establish the custom.

The WITNESS. Do you wish to know how much I got for myself?

Mr. TOTTEN. I want to know what fees were paid in that case?

A. The fees paid in that case were about 50 per cent.

Q. Who was the claimant?

A. William Bailey.

Q. Of what State?

A. Louisiana.

Q. What was the claim for?

A. It was a claim for property taken by General Banks in 1863 and 1864 for the use of the Army, for supplies—quartermaster's and commissary's.

Q. How many attorneys were engaged with you in the case?

307 A. There were a number of attorneys.

Q. In that case was it a contract with the claimant to pay all the expenses of the prosecution?

A. Well, I was not in that case when it was first obtained; I came into the case afterwards. I never saw the original contract between the parties, but I heard it talked about between the original attorney (the first attorney) and the claimant.

Q. Well, how do you know the fact that the claimant actually paid 50 per cent. for attorney's fees out of the claim—of your own knowledge?

A. I know that he paid ten per cent. to myself and some persons employed by me, and I know that he paid 25 per cent. to another attorney.

Q. You saw him pay that, did you?

308 A. I did not see the money paid. The money was paid to me, the 10 per cent., for myself and others that were employed with me.

Q. I am speaking now of the 25 per cent. to the other man.

A. I did not see that money paid.

Q. How did you know whether it was paid or not?

A. I did not see it paid.

Q. You heard it said so?

A. Yes; there were some litigation in the case over the matter, and I was told by the attorney, and was also told by the claimant himself, that

he paid the money; both of them told me, together; but they were not together at the time.

Q. All that you know about that personally is, that you got 10 per cent.?

A. I know that for my own services and the services of other gentlemen whom I employed, all I got was 10 per cent.

309 Q. And you managed the case here?

A. Yes; that is, I ostensibly had the management after I came into the case. Those I employed got 3 per cent. each in addition to the 10 per cent. I received. I employed two attorneys.

Q. You were the local attorney here in Washington and those under you?

A. That is the way I understand it.

Q. Well, now, what was the next largest award?

A. Well, I could hardly tell which is the next largest award; I have had several claims which were $5,000 and upwards, in which I was the only attorney in the case.

Q. Any of those where you got a compensation of 50 per cent., or was to get one?

Q. I have received a compensation already.

Q. Of 50 per cent.?

A. Yes, sir.

310 Q. Did you agree in the contract to pay the expenses of the prosecution?

A. I agreed in the contract that in the first instance the claimant should advance the money to pay for the witnesses and the taking of the testimony and the like, but that on the case being allowed, that expense should be taken out of my 50 per cent.

Q. Then you did not agree to advance anything?

A. I did not agree to advance anything—only that the expense of the prosecution should be taken out of the 50 per cent. which was my fee.

Q. Do you know of any contract where an attorney for the claimant before the Southern Claims Commission agreed to furnish the means to prosecute the claim and to receive a compensation of 50 per cent.?

A. I do know such a case.

311 Q. Of your own?

A. Of my own.

Q. Do you know of anybody else?

A. I do not certainly; only from hearing other attorneys state it. I have no other knowledge of it. I have never myself examined their contracts.

Q. How do you know that it is a custom amongst lawyers practicing before that commission, where they agree to pay the expenses of the prosecution that they are to get 50 per cent. for their fees?

A. Well, my knowledge as to what lawyers do, or what lawyers charge for a prosecution there, is derived from talking with the different individuals on the subject and different attorneys.

By Mr. TAYLOR:

Q. The general custom?

A. That is all I know about it. I know several attorneys here, and as we have met we have talked about the matter.

312 By Mr. TOTTEN:

Q. Does it require any greater skill or industry or ability to prosecute a case before the Southern Claims Commission than in an ordinary court of justice?

A. Well, I cannot say that it does, though it requires a certain kind of ability to prosecute cases and great judgment; and I suppose the reason for asking 50 per cent. is because the fee is contingent on success, and I do not know that to be the case in other courts.

Q. Why do you say that it requires great judgment to prosecute a case before the Southern Claims Commission?

A. Well, I say so because I think so; I think so from the peculiar circumstances surrounding the mass of cases that have to be prosecuted.

313 Q. Does it require as much judgment as it does to prosecute a case in the Court of Claims?

The WITNESS. The United States Court of Claims?

Mr. TOTTEN. Yes.

A. Well, I should think it did.

Q. You never tried a case there, did you?

A. Yes, sir.

Q. Did you ever try a case in the law courts or equity courts of this District?

A. I have tried cases in the equity courts; yes, sir.

Q. If you should collect a claim for the estate of a dead man, before the Southern Claims Commission, amounting to $27,310, without a contract, and receive the money, what would be a reasonable compensation for that service?

A. Well, now, that would depend upon some conditions.

Q. What conditions?

A. If the case was brought to me here, and I had no trouble
314 with it more than to manage it here, everything having been provided at hand, it would be one fee.

Q. How much would it be in that case?

A. 25 per cent.

Q. Without regard to the compensation of those who helped you?

A. Without regard to what others did. I haven't a claim now, and I would not take a claim before any of the Departments, with all the material brought here at hand, for less than 25 per cent. I never did do it, and I never will do it.

Q. Well, if you were associated with some other lawyers, how much would you charge?

The WITNESS. At a distance?

Mr. TOTTEN. Yes.

The WITNESS. And he to do the work there and take the evidence and the like?

Mr. TOTTEN. Yes, and send it up here.

315 A. If I was the attorney of record I should charge 25 per cent. so that he might receive his compensation. If he chose to make it less for what he was doing, all right. I should expect to receive for my own services 25 per cent.

Q. And let the claimants pay the services of the local attorney?

A. Yes, sir.

Q. Well, the services of the local attorney would be of more value than yours, wouldn't they?

A. Well, that depends on circumstances, I suppose.

Q. The great difficulty about a claim before the Southern Claims Commission is to find the proper testimony in the locality where the property was taken; is not that true?

A. That often becomes a question of the first importance.

Q. Without that testimony it is of no use?

316 A. Without proper testimony a claim may not be paid.

Q. When you have the proper testimony it is difficult to avoid a judgment; is it not?

A. Well, I suppose if the testimony is correct, and the matter properly presented afterwards, I do not see why there should be any difficulty in obtaining a judgment.

Redirect by Mr. TAYLOR:

Q. I would simply ask the question whether the fees which you formerly stated, 25 to 30 per cent., were the ordinary fees for collection cases without any contract, or anything of that kind?

A. I should say they were.

Q. You understand that to be so?

A. I do.

Q. And very frequently without any defense made at all, con-

317 tracts are made for 50 per cent.?

A. I have known a good many contracts of that kind.

Q. A large proportion of the cases presented before the Southern Claims Commission, requiring a great deal of labor and care, &c., are lost?

A. Yes, sir; and without our knowing why they were lost.

Q. Is that a reason for a larger charge in those cases, generally, that are taken contingently and upon which a large amount of labor is lost in that way?

A. I should say so.

Q. Is not that the understanding?

A. That is my understanding of it, and the understanding of *it, and the understanding* of those with whom I have talked.

By Mr. COX:

Q. I would like to ask you whether all these claims are not attended with great uncertainty?

318 A. Most undoubtedly. It is the most unsatisfactory practice that a man could engage in.

Q. After proving a case to your own satisfaction, does it sometimes occur that evidence of disloyalty or some other circumstance would defeat the claim?

A. Certainly. I have had a number of cases in my own practice where I believed the case was fully proven in every particular, and it would be lost. I have heard it remarked among members of the bar, practicing before some of these commissions, that it seemed very much to them, that after the cases were in, it was lik*ing* pulling out every fourth claim, here and there, and that that would be allowed or disallowed with-

out regard to what the proofs were. It was said in a joking way. That was stated to show the uncertainty of this practice.

319 Q. What is the proceeding for recovering these claims after they are allowed by the commission?

A. They are sent to Congress and referred to the War Claims Committee of the House. This committee I am told distributes the claims among the members. They give them such further examination as they can; allowing or disallowing particular claims, and the whole number, or so many as they approve, are referred to the House on a general bill, with an appropriation for each claim allowed, and when the bill has to be passed by appropriation.

Q. Do attorneys have to follow up the claims when they get before committees of Congress?

A. Yes, sir; and often they have more labor and intense anxiety there than at any other time.

By Mr. TAYLOR:

320 Q. Colonel Totten spoke of the labor of the local counsel in hunting up witnesses and taking the testimony as being very great, greater, perhaps, than that of the attorney here. Is it not the practice, constantly, for the attorney here to correspond with the local attorney and tell him what is essential to the success of the case, so that he is really the supervising counsel and manager of the whole business?

A. I should say that in my own practice, and in that of those with whom I have talked, it is eminently so.

P. E. DYE.

Sworn to and subscribed before me.

H. H. ALEXANDER,
Examiner.

321 JOSEPH CASEY, produced, sworn, and examined on the part and behalf of the defendants, as follows:

By Mr. TAYLOR:

Q. Please state your residence, and how long you have been practicing law in the city of Washington.

A. I reside in the city of Washington; have been practicing law something over seven years since I resigned.

Q. Are you engaged in prosecuting claims against the Gover'ment before the Court of Claims and the Claims Commission?

A. Somewhat before the Claims Commission; not much.

Q. Will you please state what are the ordinary fees for collecting claims where there is no contract.

322 A. I shall have to explain that I can scarcely speak from any experience of my own, because, in taking charge of a case, I always insist upon a written and definite contract when I take a case upon a contingent fee, and refuse to be retained at all unless the client consents to that definite arrangement.

Q. Well, please state what the usual and general fees are in cases before the Court of Claims and the commission, so far as your acquaintance with such cases is concerned.

A. As far as I have known, and it has come under my observation, contingent compensation, in the Court of Claims especially, and also before the Southern Claims Commission, has ranged variously, from 20 to 50 per cent.

Q. Can you approximate about the number of cases that you have been associated in that have paid 50 per cent.?

323 A. I have been associated in a great many cases in which there were contracts for 50 per cent.

Q. That is what I mean.

A. I should say over 200 cases where there were stipulated contracts.

Q. For 50 per cent.?

A. Yes; from 40 to 50.

Q. Where parties are associated together—different attorneys—and one or all of them advance the necessary money to bring on the witnesses and defray the expenses of litigation, what is the customary or usual fee?

A. Where parties have informed me beforehand, or through their local counsel, that that would be expected, I have observed two things: First, not to take the case unless I felt confident, after examination, that it would be gained; and the next place to have a written stipulation for payment, where local counsel were concerned, for 50 per cent. fees. I have

324 in a few cases mitigated that rule, where the claims were large, to 40 per cent. In that case it was always expected that the fees were to be equally divided with the local counsel who did the business of getting up the witnesses, taking their testimony, and arranging the case there, and doing the correspondence, seeing the client, furnishing information and his part of the case.

Q. But the division among counsel depends upon the arrangement made between themselves?

A. Yes, sir; I have also had a number of cases where the division was not equal.

Q. I will put a hypothetical case. Suppose a client from Louisiana should address a note to you offering you the care of a case, and desiring, in fact, to employ you, volunteering to pay 50 per cent., and exe-

325 cute a contract for that amount, without regard to advance payments, or assistance in bringing up witnesses, or any other aid whatever, and it should appear, however, in the progress of the case that this client was totally unable to pay the expense of witnesses, or to do anything in the prosecution of the case, and you should decline personally, yourself, to make the advance, refusing to do that business; that others would then undertake for a specific amount to make those advances, bring up the witnesses, and pay the expenses; that your client should make two contracts, independent of your own, and measureably without your knowledge, involving 20 per cent. additional fees; and after the disposition of the case, the attorney having such a contract should voluntarily assume to pay the 20 per cent. that the client had thus made, in order to pro-

326 tect the client from her foolish contracts and the loss of her claim, virtually, thereby reducing his fees, or his commissions to 30 per cent., would you, from your experience and your knowledge of these cases, consider that liberal, fair, and honorable dealing, or not?

A. The circumstances are so complicated that it is very hard for a person who has only the leading outlines of them to form an estimate or

opinion; but I should think where counsel had a written contract, as stated in the case presented, for 50 per cent., his agreeing to accept a much less sum would indicate a degree of not only fairness, but generosity.

Q. You have been pretty largely engaged in this business, have you not?

A. Well, not as largely as some other gentlemen at the bar here,
327 nor near so long; and I have been so much alone in my practice, and so isolated, indeed, that I know very little of the general run of other gentlemen's practice, except that which has come only incidentally under my notice.

Q. The question is, whether you have been pretty largely engaged in the prosecution of claims before the Court of Claims and the commission since you commenced to practice here?

A. I have been concerned in the seven years of practice here in probably 200 cases, involving very large amounts in the Court of Claims; and as many as 60 or 70 cases before the Southern Claims Commission, some of which are still pending in both courts. The Court of Claims, I ought to state, is my speciality; it was almost a speciality with me, the prosecution of cotton claims.

Q. In the prosecution of these claims does it require a great deal
328 of care, energy, and labor, mental and physical, and constant watchfulness to win success?

A. I should say it did. My experience is that the anxieties of that sort of practice are probably greater than those of any other, with the exception probably of the man who practices extensively in important criminal cases. The attorney's fees in nearly all these cases, and especially those which come from the South, are entirely contingent. He is constantly liable to be set upon by outsiders—blackmailers and harpies—who run around and interfere with his cases, or interfere with himself. Newspaper men very often interfere with the progress of claims, and undertake to discuss them in their newspapers instead of in the courts. If I were a young man, starting out in practice, this practice is certainly not
329 one that would be tempting to me, with the experience I have had.

Q. Even with these apparently large fees?

A. The contingent fees are large, probably larger than any other practice that we have; but I look upon the anxieties and contingencies as greater than in any other practice.

Cross-examined by Mr. TOTTEN:

Q. What is the usual commission or compensation for collecting claims through the Court of Claims, according to your experience?

A. Well, as I have already stated, my experience has not been large even in the Court of Claims, except in the cotton cases, and they involve so many contingencies, and so many doubts and difficulties, that
330 the contingent fees there, as I understand it, both from my own experience and others', are large. As far as my knowledge extends, they have ranged from 25 to 30, 40 and 50 per cent. in those cases. I have known other cases, in my own experience, to be taken for 15, 20, 25, 30, and 33 per cent. I have quite a large number of contracts in my possession at present at those rates.

Q. When you speak about the custom and usage in regard to fees for collecting claims, you speak about your own experience, do you not?

A. I avoided speaking about the custom because I believe that my knowledge of what is the custom is not sufficiently extensive and general to enable me to speak of it as a custom—what we understand as lawyers by a custom—from general usage.

Q. I want to suppose a case for your consideration. Suppose
331 that an attorney is called into a case in the Southern Claims Commission, which has already been presented there by petition, and the testimony is hunted up and the witnesses sent up here, and the local attorney here examines five or six of them for the claimant and cross-examines one or two or three for the Gover'ment, the claimant is a widow with three little children; the amount allowed by the commission is $27,310, and the amount is paid; what, in your judgment, would be a fair and reasonable compensation for the local attorney here, who attended to the case in this city without any contract, and you are called upon to advise the conscience of a court of chancery; what would be a reasonable compensation to charge that estate?

A. There are two elements that would enter into the answer.
332 The first is, whether the estate was able to pay a fee quantum meruit, without the recovery; (2d) or whether the fee was entirely contingent upon the recovery.

Q. The fee is wholly contingent upon the recovery?

A. Well, I should say that in those cases the contingent compensation would range from 15 to 20 per cent., so far as my own knowledge goes.

Q. Do you mean that the 15 to 25 per cent. would included all the fees that were to be paid by the estate for the collection of this claim?

A. My answer relates to the fee, because it would depend upon themselves as to what arrangement they would make with their local attorney.

Q. Do you mean to say that the fee which he gets ought to pay,
333 or the fee which the claim ought to pay, would be from 15 to 25 per cent.?

A. I mean the fee which ought to be paid to the counsel here—the contingent compensation.

Q. Then, in your judgment, the counsel by law would be entitled to compensation also in addition to that?

A. I should say so, if they had employed one.

Q. Would you so advise the conscience of a court of chancery settling the estate of little children?

A. I think I would, if the proper person, the one who had charge of the estate and was entitled to act in the premises, had employed counsel here, and also had employed local counsel to manage the case there. I will add that, in my judgment, local counsel, as a general thing, are totally worthless, if you have an intelligent client to correspond with,
334 particularly in the South. I have had but one or two that ever rendered me any assistance; others have been mere drags upon me.

Q. Well, the local counsel, provided he be an efficient and capable one, who renders the service of hunting up the witnesses and sending them up here, renders the most valuable portion of the service, does he not?

A. I have generally found that the client is much more efficient in that particular than the local counsel.

Q. Well, I am putting a case where the local counsel is a capable and industrious man, and who actually does hunt up the testimony and sends it up here, which actually does prove the case. How does the value of his services compare with the value of the services rendered by the counsel in this city?

335 A. Well, so far as my experience goes, in the Court of Claims they are not to be compared in point of ability required, in point of anxiety, nor in point of labor. The really professional labor is to be done by counsel here, in all these cases.

Q. There is no comparison that could be made between the service of conducting a case in the Court of Claims and one before the Southern Claims Commission; is not that so?

A. I do not know. Ordinarily my experience has been different; I have had some very troublesome and difficult cases before the Southern Claims Commission, and have found great difficulty there because I could not hold that commission ever to any rule of law, and scarcely to a rule of common sense.

Q. In the Court of Claims there is always a bitter contest made

336 on the part of the Gover'ment through its counsel, is there not?

A. Yes, sir.

Q. The case is always argued, or nearly always argued, before the court on proof?

A. In the Court of Claims the argument is made by counsel; in the Southern Claims Commission it is made by the judges.

Q. You have practiced law in the ordinary courts of law and equity in your life-time, have not?

A. I believe I have.

Q. Does it require as much skill to conduct a claim through the Southern Claims Commission as in an ordinary court of justice?

A. It depends upon the two cases, the one in the Southern Claims Commission and the other in the ordinary court of justice, what is in-

337 volved and the difficulties that are presented, growing out of the facts of the several cases. I had a case before the Southern Claims Commission which involved very difficult questions, questions which had divided both the Court of Claims and the Supreme Court of the United States.

Q. Cannot anybody who gets a case practice in the Southern Claims Commission, whether he be a lawyer or not?

A. He can practice, but whether he can practice law is a different thing.

Q. I should say practice law. He can practice in that commission?

A. Certainly; I think so.

Q. They do not require that a man who prrctices as an attorney there should have any professional skill or be a member of the bar of any of the ordinary courts of the country, do they?

A. I understand that they do not.

JOS. CASEY.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

338 CHARLES F. PECK produced, sworn, and examined on the part and behalf of the defendants, as follows:

By Mr. TAYLOR:

Q. Please state your residence and your profession.

A. I live in Georgetown, D. C., and my profession as attorney at law.

Q. Have you been largely engaged in prosecuting claims against the United States?

A. To a considerable extent I have been engaged in the prosecution of claims before the Court of Claims, and to a limited extent before the Southern Claims Commission.

Q. Please state what the customary fee for prosecuting claims is.

The WITNESS. Do you mean before the Southern Claims Commission?

Mr. TAYLOR. Before the Southern Claims Commission and the
339 Court of Claims; you may state, if you please, first, before the Southern Claims Commission.

A. Well, so far as my knowledge extends, the usual charges before the Southern Claims Commission are higher than before the Court of Claims, for various reasons, ranging from one-quarter to one third of the amount recovered, where the fee is contingent, and I believe the fees are contingent in all cases.

By Mr. COX:

Q. What are the reasons the fees are higher there than before the Court of Claims?

A. One reason is the extreme hazard and uncertainty that attends the prosecution of claims before that commission. The Southern Claims Commission is not governed by any rules of law or any system of jurisprudence that is known to lawyers, and so far as my observation and experi-
340 ence has extended, it is a sort of hap-hazard tribunal. You never can have any assurance, no matter how good a case is, that it will be allowed, and there is no appeal from its decisions. However arbitrary it may be, you are generally concluded by its action. The want of judicial forms before the commission renders its action extremely uncertain. It has the reputation of being extremely zealous in guarding the interests of the Gover'ment, and the commissioners themselves always act as attorneys for the United States; that is, they seem to feel that they are charged with defending the interests of the United States, and not all charged with looking after the interests of the claimant. Those are the reasons that operate upon my own mind.

Q. Well, is there not another reason also, that if you get a judgment by the commission, *if* not final; you have to go to Congress to
341 get an appropriation there?

A. Yes, sir; that is the case. Some claims have been stopped after they passed the commission, the appropriations being refused by Congress; and that furnishes an opportunity for anybody who wants to blackmail you to interpose and slander your claim.

Q. Is that a common thing?

A. I have heard of a good many such cases.

Mr. TOTTEN. Do not tell us what you have heard of. Tell us what you know.

The WITNESS. Well, I never investigated the thing, if you come down

to actual personal knowledge. I have no actual personal knowledge of any such case before the Southern Claims Commission.

Mr. TOTTEN. Nobody ever slandered any of yours?

The WITNESS. Not before the Claims Commission.

By Mr. COX:

Q. Before Congress?

342 A. Not in a case connected with the Claims Commission; for I should say that my experience before the Claims Commission has not been extensive. I have had an extreme aversion to undertake any business before that commission.

By Mr. TAYLOR:

Q. These cases before the Claims Commission and what are known as Department cases, called the 4th of July cases, which are referred to Congress for an appropriation, generally require looking after in the committee with pretty close attention after the reports are made, do they not?

A. Yes, sir; I believe they do.

Q. You heard me state the hypothetical case to Judge Casey and ask his opinion of the conduct of an attorney who gave up 20 per cent. of a contract case in order to protect his client from an over-fee, and as to whether that would be considered liberal and kind or not. What

343 have you to say in reference to that?

A. Where such a contract has been fairly entered into, as I understood from the hypothetical case put to Judge Casey, any reduction from the contract price I should consider a matter of mere generosity.

Cross-examined by Mr. TOTTEN:

Q. Did you hear the hypothetical case I put to Judge Casey and his answer?

A. I did.

Q. Do you remember it well enough to answer it?

A. I would like to hear it read again.

(The question was read to the witness, as follows:)

"Suppose that an attorney is called into a case in the Southern Claims Commission which has already been presented there by petition, and

344 the testimony is hunted up, and the witnesses sent up here, and the local attorney here examined five or six of them for the claimant, and cross-examines one or two or three for the Gover'ment; the claimant is a widow with three little children; the amount allowed by the commission is $27,310, and the amount is paid. What, in your judgment, would be a fair and reasonable compensation for the local attorney here who attended to the case in this city, without any contract, and you are called on to advise the conscience of a court of chancery; what would be a reasonable compensation to charge that estate?

Mr. TOTTEN. That is a contingent fee.

A. The fee being a contingent one, I am unable to see that the attorney would be entitled, as a matter of right and justice, to receive any less, or more, because of the claimant being a widow, with or without

345 children, and the hypothetical case stated would, to my mind, be merely a question of the reasonable compensation to which an attorney in Washington would be entitled for conducting such a suit before

that tribunal, and, as I said before, I think the usual and reasonable compensation would be from 25 to 33 per cent., possibly more and possibly less, depending upon the peculiar circumstances of the case. Of course, I state this irrespective of any special contract in the case.

Q. Would not 15 per cent. be pretty good pay for attorneys in such a case—15 per cent. of $27,310?

A. After the case was won and the money was in hand, if it was actual fee of that amount, I should think it would be very liberal.

Q. Well, that is the case; the money is in hand.

346 A. But, if the attorney took the case upon the hazard of getting nothing if he failed, that, I think, should always be considered after the money is in hand, and it would modify the amount to be allowed very greatly, in my estimation.

Redirect by Mr. TAYLOR:

Q. I want simply to make your answer a little more distinct. The amount of the fee in such a case as was stated by General Totten would be simply the ordinary and customary fee?

A. That is the way I regarded the question, and the way I answered it.

Q. From 25 to 33 per cent?

A. Yes, sir.

CHARLES F. PECK.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

Adjourned till Thursday, December 27th, 1877, at 3 o'clock p. m.

347 THURSDAY, *Dec. 27th*, 1877.

Met pursuant to adjournment.

Present: Mr. Totten, for complainants, Mr. Cox, for defendants, and Mr. George Taylor, one of the defendants.

Whereupon, ADDISON A. HOSMER was produced, sworn, and examined on the part and behalf of the defendants, as follows:

By Mr. TAYLOR:

Q. Will you please state where you reside, and your business.

A. I reside in this city, and have resided here since 1866; my business is the practice of law and the collection of claims against the Gover'ment.

Q. Have you been largely engaged in the collection of claims against the Gover'ment?

348 A. For ten years I was a member of the firm of Chipman, Hosmer and Company. We had a large amount of claims against the Gover'ment placed in our hands for collection—several millions of dollars.

Q. Will you please state what the ordinary fees are for collecting claims against the Government in Washington City.

A. Well, so far as the business that I was connected with was concerned, it ranged from 25 to 50 per cent.; and my knowledge derived from other sources is that the fees charged by other firms corresponds with that; probably less than 50 per cent., but a contingent fee of from 25 to 50 per cent. Probably it would average from 33 to 37 per cent.

Q. What was the relative labor and trouble in prosecuting claims before the Southern Claims Commission and in other departments and in the Court of Claims?

349 A. The Southern Claims Commission is a much less satisfactory tribunal to practice before. That has been my experience, because one always felt there was so much left to arbitrary decision. It was the individual judgment of men as to what they thought could be about right. There are few of the certainties that you enjoy in practicing before the Court of Claims.

Q. You would, then, consider it a much more troublesome and trying tribunal?

A. I always prefer the Court of Claims *on* the Departments. Well, I do not know as I would say the Departments—I would prefer the Court of Claims very much.

Q. Suppose a client and claimant at a distant point should write and voluntarily offer to pay 50 per cent. on her claim, and enter into a

350 contract for that amount, and then afterwards desire the attorney to advance money to bring up witnesses and for other expenses which he declined to advance, refusing to do that business, and that the claimant should then make an independent contract with another party, agreeing to pay 10 per cent. to him for the advance of the necessary funds and to bring up the witnesses, and other labor connected with it, and that she should afterwards make another independent contract, unknown to the attorney, against his wishes and contrary to his advice, if he had an opportunity to advise, agreeing to pay another party who aided in hunting up witnesses, &c., in Louisiana, another 10 per cent., and after the allowance of the claim of $27,300 the original attorney, who had his contract for 50 per cent., voluntarily assumed to pay the two contracts of 10 per cent each, or 20 per cent, out of his 50 per cent., thus to save a

351 client from her independent contracts, and secure the net 50 per per cent. to her, whereby the original attorney would reduce his claim to 30 per cent., and a very laborious, tedious, and hardly-contested claim, would you consider that just on the part of the attorney, or would you look upon it as liberal and kind to the claimant?

A. I should regard it as exceedingly liberal and generous.

Q. Now, suppose that that attorney, in addition to the advances of his associate attorneys, whom he afterwards resolved to treat as associate attorneys, should, as a matter of charity and kindness to the claimant, advance from time to time, without knowing the result of the case, a considerable sum of money—say $800 or $900; would that not entitle him, eventually, to a much more liberal allowance of fee, supposing no

352 contract had been made?

A. I should think it would; very much more.

Q. Because why?

A. Well, it is an un'sual thing to do in the first place; it is not an attorney's business to do it; and it is done at great risk, and should be therefore largely compensated.

Q. Well, suppose a case of that kind, when the allowance was made amounting to $27,300, had been taken without contract, and it had been found to be a very tedious, complicated, and laborious case; would 33⅓ per cent. be an extravagant charge?

A. I do not think it would; I think it would be a very reasonable charge.

By Mr. Cox:

Q. I will just ask you whether these claims have not to be followed up with additional labor before Congress?

353 A. Yes; it is a matter of constant care and labor to see after them. Congressmen have caprices, or whims, or prejudices, or perhaps have not the time to give the claim a candid consideration. It fact the judgment or award of the commission is never considered certain until the committees of both Houses have passed upon it and Congress itself has voted to appropriate the money. After that, in order to expedite the settlement of these cases in the Department, there is still further labor; and not only that, but in this class of cases there is always a constant liability to unfavorable regulation (which does not apply upon a judgment obtained in the Court of Claims) which may take from the attorney the fees he has earned by allowing other attorneys to file powers of attorney, as they did one time in the Treasury, and it is very difficult to get

354 the order revoked. After all the labor has been performed and the award made, the Treasury Department has the power to regulate the payment of the award, so that the attorney may, in fact, never receive a dollar. Cases of that kind have occurred, and for a long time it was a standing rule of the Department that any attorney might come in at any stage, and by filing a power supersede the one who had done the work, and might obtain the amount of the award, leaving the attorney who had done the work without any compensation, and without any remedy, save what he might have through an action at law against the claimant.

Q. Then, from the commencement of these actions, or petitions, in the Southern Claims Commission, down to their final settlement there is constant anxiety and labor, and they require constant attention?

355 A. Yes, and a constant risk of losing what you have done.

Cross-examined by Mr. TOTTEN:

Q. In what kind of cases does the rate of 50 per centum contingent fees prevail? You may confine yourself to your own fees, if you please.

A. Well, it depends upon the condition of the claim, the facility with which you can get the requisite proof, and somewhat the amount of the claim also; because a large claim is always contested with much more persistency. The commissioners look upon a large claim as being a matter that they must contest with more persistency than a small one relatively. I think a large claim, in reference to the award, always runs a greater hazard than a small one.

356 Q. You do not mean to say the larger the claim the larger the percentage as to fees?

A. Yes, I would; unless it was a claim that was very clear. I said the number of witnesses required, and the facility of obtaining proof, are the two conditions where a larger fee would be required, and in addition to that a large claim is always cut down (that is my experience) in greater proportion than a small claim. So taking it a' the beginning you do not expect to get the proportion of a large claim that you do of a small one.

Q. Can you conceive of a claim against the Gover'ment for $100,000

which would authorize an attorney to charge 50 per cent. for his services in the way of contingent fees, no matter what the labor might be?

A. Oh, yes.

Q. I mean professional labor; I am not talking about anything else?

357 A. Well, I am talking about the labor performed, as a rule, in the collection of these claims.

Q. Is it possible for a professional lawyer to earn $50,000 in collecting a claim against the Gover'ment here?

A. Well, that is a matter I suppose that has to be estimated by the attorney and his client. As an abstract question——

Q. (Interposing.) I am not talking about contracts now.

A. I want to get at your idea. A man earns from his client whatever sum they may agree upon as compensation for doing the work. If there is no contract in the case, then it depends upon the amount of labor performed and the custom in such cases.

Q. Very well. Now suppose that a claim has been filed and duly
358 presented to the Southern Claims Commission, and that an attorney residing in the city of Washington takes charge of the case at that point, and that the witnesses to sustain the claim are first hunted up by other counsel and sent here, and he examines them and sees that they are presented before the commission, and are examined; that he appears two or three times and cross-examines a witness or two of the Gover'ment; an allowance of $27,310 is made, and he follows it up as you ordinarily do in these cases until the draft for $27,310 has been issued. In the absence of a contract in such a case what would be a reasonable compensation? And I am asking you now what your answer would be to that question if you were called upon to advise the conscience of a court of chancery, which has to take care of the interests of infant children
359 and widows. What would you say, under those circumstances, was a reasonable compensation, in the absence of a contract, the fee of course being contingent?

A. You mean, what I would advise a court would be a reasonable fee to charge at the outset?

Q. To charge after the money was paid?

A. I do not know such a case.

Q. Well, I put such a case.

A. I never had such a case; I do not think I would be competent to advise. If a question of philanthropy or generosity came in I might be harder or weaker than some men.

Q. Answer the question without regard to philanthropy or generosity. It is a matter of the value of an attorney's fee. Bear in mind that the fee is contingent. I am asking you what, in your estimation, would be a reasonable fee to pay a professional man for his services?

360 A. I should say it would be just such a fee as he would charge under a contract at the beginning, before anything was done.

Q. Is that all the answer you have to make to the question?

A. In answering the question as I did I thought I answered it completely, because I had already answered what the fee would be in the common course of practice. I would make it just the same. The fact that the witnesses had been brought here and had given their testimony,

which testimony I would have to examine before I made a contract, if that was insisted upon, if I did not know what they had testified to, I should be in just as much uncertainty as to what the result of their testimony was, or how unfavorable it would be, as if I did not know that they had been brought here, and I should have made no difference on that account.

361 Q. Will you state how many cases in your office have paid you 50 per cent. commissions?

A. Well, I could not tell without examining.

Q. I do not want you to tell me exactly, but I want you to give me an idea. Was it 20 or 25 or 50 or 100?

A. Well, I am utterly unable to approximate it, because I never had charge of that——

Q. (Interposing.) Well, did you ever get 50 per cent. commissions for collecting any one claim against the United States?

A. Yes, sir.

Q. How large was it?

A. $50,000.

Q. You got 50 per cent.?

A. Yes; that was the voluntary offer of the claimant, and we accepted it.

Q. What was the nature of that case—a cotton claim or a steamboat claim?

362 A. It was a steamboat claim.

Q. How many others have you had?

A. Well, I suppose they run above a hundred.

Q. Any other large ones?

A. Yes; I think some other large ones; I do not remember any as large as that.

Q. Well, is it not a very unusual thing for attorneys to get 50 per cent. contingent fees where the sum amounts to $10,000 and upwards?

A. No; I do not think it is a very unusual thing.

Q. Is not 15 or 25 per cent. the ruling rate here where the amount goes up as high as $25,000?

A. I think that is lower than the ordinary fee?

Q. Is 25 per cent. lower than the ordinary fee?

A. I think there were more at 30 than there were at 25 in the business of the firm with which I was connected.

Q. You had a great many little bounty claims?

363 A. Bounty claims are regulated by law.

Q. You are not speaking of those?

A. No, sir.

Q. Is not 15 per cent. a more usual rate amongst the reputable men of the profession than 50 per cent.?

A. I do not think we ever took any claims at 15 per cent., and I do not know of any attorneys that do take them at that rate; there may be some.

Q. When a man offers you more than 25 per cent. you regard his claim with suspicion, do you not?

A. I do not think that that attaches to it.

Q. Is not a claim considered desperate where the owner of it offers 50 per cent. for its collection?

A. It is not my observation that the question of the desperate character of the claim is determined at all by his offer of 50 per cent.

364 Q. Would not a contract for a contingent fee of 50 per cent. for collecting the estate of a dead man through the Southern Claims Commission be unconscionable, in your judgment, supposing the amount of labor is the ordinary amount of labor, where there are four, or five, or ten witnesses examined?

A. Well, that would depend altogether upon the nature of the case. I cannot state that it would be or would not be. It might be, under some circumstances, and under other circumstances it might not. I do not understand that the question of collections for a dead man's estate involves any elements that the collection of a claim for a live man's estate do not involve.

Q. Well, suppose the contract for 50 per cent. were made with the attorney by a woman who did not have as much sense as a baby, and who did not have much sense under any circumstances?

365 A. If it was a clear case it would be an unconscionable fee.

Q. Would not a contract for a 50 per cent. for a clear claim against the United States be unconscionable?

A. Well, I think it would as an abstract question.

Q. Well, would not a contingent fee of 25 per cent. for a good, substantial, honest claim be an extraordinarily high fee?

A. Not according to the custom here. The other case you stated was "a clear case." That is altogether different from an ordinary, good, apparent case.

Q. The United States is a desperate debtor, is it not?

A. Yes; it is.

Redirect by Mr. TAYLOR:

366 Q. When you answer that 50 per cent. for a clear, unequivocal, and undoubted claim would be unconscionable, do you mean to say that for a claim which is presented to you with the ordinary contingencies and doubts by a client, without your knowledge of the facts connected with it, or the truthfulness of the statements of your client, 50 per cent. would be unconscionable?

A. I should not regard that as a clear and undoubted case.

Q. You would regard as a clear and undoubted case the 5 per cent. bonds of the United States, or something of that kind?

A. Yes, sir; I should regard a claim as clear that was provided for by law, and the remedy was before a court of law.

Q. Would you regard any case commenced before the Southern
367 Claims Commission as a clear, unequivocal, and undoubted case, in which your answer would apply?

A. No, sir; I never had such a case. I have never known a case before the commission where there was any sanction for believing that you could collect $10 absolutely.

ADDESON A. HOSMER.

Sworn to and subscribed before me.

H. H. ALEXANDER,
Examiner.

368 WILLIAM RICHARDS, produced, sworn, and examined on the part and behalf of the defendants, as follows:

By Mr. TAYLOR:

Q. Will you be kind enough to state where you reside and what your business is, and with what firm you are connected in business?

A. Washington City; prosecuting claims against the Government, and I have been in that business since 1869, with Chipman, Hosmer & Co., and with Gilmore & Co., where I am now engaged.

Q. Have you charge of the business of Gilmore & Co. before the Southern Claims Commission chiefly?

A. I have had the principal charge of all the Southern claims
369 prosecuted before the Commissioner' of Claims which Chipman & Hosmer obtained, and of those which were transferred to Gilmore & Co. I have had the principal charge of them all the time.

Q. Are you familiar with the fees charged and paid in those cases?

A. I am tolerably familiar with them.

Q. Will you please state what are the ordinary fees in cases pending and prosecuted before the Southern Claims Commission?

A. The contracts for fees which we have obtained in our cases vary, I would say from 15 to 50 per cent. And that differs from what Col. Hosmer said, and is explained in this way: He took some cases in which there was no local attorney, and, being satisfied that they were pretty good cases, we took a few for 15 per cent. where we got the whole fee. But
370 the ordinary fee, I think, would average over 25 per cent.

Q. And how high?

A. And go as high as 50 per cent.

Q. Have you an idea how many cases you have in your office now, varying from 25 to 50 per cent.?

A. Well, of those Southern claims I suppose we have probably over 500.

Q. Varying from 25 to 50 per cent.?

A. Yes, sir.

Q. How many that you have disposed of under such contracts?

A. I should think about 1,400 cases.

Q. That were taken under the same fees?

A. Yes, sir. If you will allow me I will explain that in most cases the contracts are taken by the local 'gents and sent to us, and they vary. One agent I have in my mind got 50 per cent. in nearly all the cases he sent to us—big or little.

371 Q. What locality was that from?

A. That was in Natchez, Miss.

Q. Now, taking 25 per cent. to be the minimum what would be the average fee paid on all cases?

A. I could not state; it is only guess work.

Q. Well, approximate it.

A. I should say the average would exceed 30 per cent.

Q. Suppose an attorney and his associates should advance the money necessary to pay the expenses of bringing up witnesses, and that the attorney himself, as a matter of kindness and humanity, had, before he knew anything about the case, and during the progress of the case, advanced a very considerable sum of money to support the client and her children, in a case of more than usual embarrassment, and requiring more than usual

labor and attention, what, under those circumstances, would
372 you consider a fair and just fee, measuring it by the practice of the attorneys engaged in that business?

A. I cannot say very much about other attorneys; I can speak from our own experience. I would say that we would neaver advance any money on those Southern claims cases, because we consider the risk too great; and whereover advances have been made to our knowledge on our cases under such circumstances as you have mentioned, we have considered a fee of 50 per cent. not too much.

Q. Does the labor in such cases terminate with the allowance of the commissioners in the Claims Commission?

A. It does not.

Q. What else is required of the attorney who is watchful and diligent in prosecuting claims?

373 A. The Commissioners of Claims report to Congress. The Committee on War Claims in the House takes up their report and acts upon it. Then it must go to the Senate and be acted upon by the Committee on Claims there; and the bill in its progress through the two Houses requires considerable attention. Several times the bill would have failed of passage had it not been for the attention of several attorneys, who sat one night in particular all night long in the Senate watching the proceedings and giving notice to Senators who had gone to the cloak-rooms, or other places, that the bill was coming up and their presence was necessary in order to save the bill and get it passed. A great deal of attention of that kind was required. A great deal of influence by way of conversation with Members and Senators has to be brought to bear to give
374 them information, to get them interested in it, and to make sure of the passage of the bill.

Q. And after the appropriation by Congress does the case require any further attention?

A. Very considerable, in order to expedite the collection, the getting of the draft, because the bill goes first to the State Department, and if it is not attended to before it is certified to the Treasury a whole month will pass. Then it must be attended to. Then when it goes to the Treasury it begins at the 3d Auditor and goes around some 20 or 30 different offices, and then it has to go to the War Department, then comes back again and goes around the Treasury once more. And then there is the liabilty of being interferred with by shysters and blackmailers; in fact there
375 is a great deal of trouble until you get the draft in your hands. You are always liable to trouble, delay, and vexation, and sometimes even after you have the draft in your hands there is trouble.

Cross-examined by Mr. TOTTEN:

Q. After the report has been made by the Claims Commission the professional services are substantially at an end, I take it?

A. In one sense they are, but the contract is to prosecute the claim clear through to the end, and I have already explained how work is necessary in Congress. You may call it professional or not, it is necessary.

376 Redirect by Mr. TAYLOR:

Q. About what proportion of the cases prosecuted before the Claims Commission are allowed?

A. I should say at once that more than one-half are rejected out and out—disallowed.

Q. Which cases generally require and receive as much attention and labor as the cases allowed?

A. Oh, yes; and then in those cases which are allowed the claim is generally reduced at least one-half.

Q. Well, in such cases as you have described here and drawn forth by the various questions put to General Hosmer and yourself, where $27,310 has been recovered for an estate, or for a lady and her children representing the estate, what would be a fair, equitable, and honorable fee, measured by the practise of the profession in this city?

377 A. Under all the circumstances which you have stated in the long question which you put to Col. Hosmer and which you have now stated, considering the advances which you made upon an uncertainty (because nobody can tell what the Claims Commissioners are going to do), and all the other circumstances stated, I should say that a fee of 33⅓ per cent. would not have been a cent too much for your services. That is what we consider fair from our experience.

Recross examined by Mr. TOTTEN:

Q. Are you a member of the bar?

A. Yes, sir.

Q. Of the District of Columbia?

A. No, sir; I never was admitted here. I was admitted in the Court of Claims here.

Q. Did you ever practice law?

A. Not much, sir.

378 Q. When were you first admitted to the bar?

A. In Ohio.

WM. RICHARDS.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

Adjourned till Saturday, Dec. 29th, 1877, at 3 o'clock p. m.

SATURDAY, *Dec. 29th*, 1877.

Met pursuant to adjournment.

Present: Mr. Totten, counsel for complainant'; Mr. Cox, counsel for defendants, and Mr. George Taylor, one of the defendants.

Mr. Taylor stated that he was unable to obtain the attendance of certain witnesses whom he desired to examine, and that he did not feel well enough to take the stand for the purpose of giving his own evidence. Whereupon the hearing was postponed until 2 o'clock p. m. Monday, Dec. 31st, 1877.

H. H. ALEXANDER, *Examiner.*

379 MONDAY, *Dec. 31st*, 1877.

Met pursuant to adjournment.

Present: Mr. Totten, complainant's counsel; Mr. Cox, defendants' counsel, and Mr. Geo. Taylor, one of defendants.

Mr. Taylor that he would like to have a little further time, for the purpose of looking over and arranging certain letters of complainants

which he desired to offer when he gave his own testimony. Whereupon the hearing was further adjourned to meet on Thursday, Jan. 3d, 1878, at half-past 2 o'clock p. m.

H. H. ALEXANDER, *Examiner.*

380 THURSDAY, *January 3d*, 1878.

Met pursuant to adjournment.

Present: Mr. Totten, counsel for complainant, and Mr. Cox and Wood, counsel for defense.

Whereupon GEORGE TAYLOR, defendant, was produced, sworn, and examined on the part and behalf of the defense, as follows:

By Mr. COX:

Please state the circumstances under which you were employed to prosecute the claim of the complainant.

A. The first intimation we had of any claim against the Government by Mrs. Bemiss was the receipt of a letter from Mr. John Rawle, of Natchez, Miss., an old client of mine, enclosing a letter which he had received from Mrs. Bemiss in reference to her claim, and asking her for a letter of introduction to myself, as she had understood that I had been a very successful attorney in that business. The letters were introduced by Mr.
381 Wood in his testimony, and, I think, were copied in his testimony and then withdrawn by permission or understanding between counsel, for the purpose of sending them to Mr. Rawle, that he might verify them in his deposition. In the letter that she addressed to Mr. Rawle, Mrs. Bemiss speaks of her case, and then says that she is willing to allow one-half for the recovery of the other half of her claim.

Q. That letter is copied in the testimony?

A. Yes; that is copied in the testimony, and will be on file with Mr. Rawle's deposition. A few days after the receipt of these letters from Mr. Rawle I received a letter from Mrs. Bemiss, which has been put in testimony by Mr. Wood, in which she describes her case and requests me to take charge of it, saying that the attorneys whom she had employed had neglected it, or had done nothing in it, and again offering me 50 per cent. in the case. My recollection is that I replied to Mrs. Bemiss, acknowledging the receipt of her letters, and stating that we would examine the papers and make her a report on the subject. I have not been in
382 the habit, or it is not a custom for me, to examine papers in the Southern Claims Commission, that branch of the business being almost exclusively in the hands of Mr. Wood, my associate in that business. He was then out of the city, and upon his return a short time afterwards I requested him to examine the papers, and he did so, and reported to me that a large portion of the claim was for the destruction of property and could not be recovered. He also informed me that there was nothing on file but the petition. She had spoken in her letters of papers, certificates, and other matters being filed. After the examination Mr. Wood prepared a contract and a power of attorney and sent them to Mrs. Bemiss for execution. As an attorney appeared on record, Mr. Barnitz, I enquired about him, as is our habit when we are employed in a case in which other attorneys have been or are interested, and found that he had left the city, and that he was either insane or dead, the parties giving me the information

not knowing exactly which. I did this before my partner, Mr.
383 Wood, wrote the letter to Mrs. Bemiss enclosing the power of attorney and contract. It became necessary for us to have a power of attorney and substitution in order to become attorneys of record and properly manage the case, and we so notified Mrs. Bemiss. In due course of mail Mrs. Bemiss returned the contract signed and the power of attorney executed, as directed, and thanked us for accepting her terms. We have no copy of Mr. Wood's letter to Mrs. Bemiss. I recollect distinctly when he read it to me before transmitting it, that he stated therein to her that a large portion of the claim was for destruction of property, which was not within jurisdiction of the commission. The next thing that took place in the case was the appearance of Mrs. Bemiss in the city, stopping at the Metropolitan Hotel. She notified me by letter of her arrival early in December, 1873. I spoke to Mr. Wood on the subject, and he called to see her in reference to her claim. After various conversations with her on his part I saw her once or twice myself. Mr. Wood saw her quite frequently, as he had charge of the case, and went over the particulars to learn what she knew about it. He had her examined before
384 the commissioners, rather a long and tedious examination, and then it appeared for the first time that she had no means whatever to prosecute her claim, that is, to bring up the witnesses from Louisiana, as the law required they should be brought here on a claim over $10,000. Mr. Wood spoke to me on the subject; said that she desired me to make the advances to bring up her witnesses, &c., and I perem'torily declined to do so, as I had uniformly done. This brought the examination of the case to a stop virtually until something could be done to relieve the difficulty. At that time there was a party here from New Orleans in some connection with Judge Ray by the name of Hank. Mr. Hank was stopping at the same hotel and was well acquainted apparently with Mrs. Bemiss. Mrs. Bemiss informed me that he said he thought he could arrange to get Judge Ray to bring up the witnesses at his expense for a consideration of 10 per cent. on the amount allowed. She spoke to both Mr. Wood and myself on the subject, and as I had declined to do so she then said
385 that she would employ Mr. Ray, or give him 10 per cent. if he would bring up the witnesses as proposed. Mr. Hank was authorized by her to write to Mr. Ray and ascertain the fact. I think also that either Mr. Wood or myself wrote Judge Ray on the subject, and Judge Ray consented to advance the money necessary to bring up the witnesses, and to go and examine the witnesses and ascertain which onee should be sent up, and he afterwards did send up such witnesses as he found to be of use in the case at his own expense. Mrs. Bemiss expressed great satisfaction at it and great gratitude for his action in the matter. I am not certain whether it was just at that time or later that I told her that I would not allow her to pay the whole ten per cent. out of the claim, but that we would share the expense, paying one-half ourselves. I so informed her, either about that time or soon after that time. She was very anxious to remain here until the witnesses were brought from Louisiana, and we thought it rather important that she should, as she knew more of the case and
386 what the witnesses could testify to, and she remained here until they did arrive, and she knew they were sent up here by Judge Ray, and their expenses paid by Judge Ray under the arrangement which had

been made at her own solicitation. I cannot say exactly what time the witnesses arrived here, but I think they must have been examined some time during February, 1874. She received a telegram from Mr. Ray, dated New Orleans, January 31st, 1874, announcing the fact that he would send up the Bemiss witnesses. I submit the telegram:

(The same is filed herewith, marked "Exhibit Taylor No. 1.")

387 [Half-rate messages.]

WESTERN UNION TELEGRAPH COMPANY.

Dated New Orleans, January 31, 1874, 11 p. m.

To Mess. TAYLOR and WOOD, 710 E st., W.

Will send Bemiss witnesses. Let me know when power substitution sent.

JOHN RAY.

11 p'd. ½. B. F.

388 After the witnesses were examined Mrs. Bemiss was re-examined in order that some points in the testimony might be explained, and some time in March or the first of April she left here for New York. Before she left she requested Mr. Wood or myself, or both of us, to advance her some money to pay her hotel bill here, notifying us that she had nothing whatever to pay with, and that she wanted money for her expenses to New York. I refused for some time to make any advances whatever, as I have always found such things unproductive and very likely to occasion loss, but it became a question of humanity rather than of business policy, and I consented to advance the money to pay her hotel bill here and to send her to New York. She stated that she had friends there who would provide for and take care of her if she could only get there. Within the week after she went on to New York I visited New York, and called at the boarding-house which she had given me as the address at which
389 she might be found, and ascertained that she had spent one day and one night there, and had taken herself and her baggage then to the Stevens House, New York. I called to see her there, and she said that she expected to get funds from her brother-in-law, Mr. Cyrus Bemiss, of New Orleans, who had promised to aid her. I then returned, and soon after my return received various letters from her, and, among the rest, letters notifying me that she had no means with which to pay her bill; that she had not received funds from New Orleans, and that she did not know what to do. As I had made the first advance under the impression that it would be the last, I was very reluctant to be drawn into further advances to a woman that I knew very little about, and in a case I knew less about; and for some time, in fact during the period she remained at the Stevens House, I declined to make any advances whatever to her, as she had deliberately informed me that she expected to have funds
390 to take care of herself. After remaining there some time, perhaps a month—I cannot say the time exactly—she informed me by letter that she had no means whatever with which to pay her bill; that the proprietors had taken possession of her baggage and turned her into the street, with her youngest child, and that she had gone to a friend's in the

upper part of New York, and from there I soon after learned that they had transferred her to the Hoffman House. She notified me of the amount due at the Stevens House, which was $84, and that she could not get her baggage without the payment of that money. With a very great reluctance on my part, and only enforced by the sentiments of kindness and humanity, I remitted the amount of money to pay her bill and get her baggage, I think at that time $100. She had nothing whatever with which to pay her bill at the Hoffman House, and so informed me by
391 letter, and wanted me to make an arrangement to borrow money for her. Her letter notifying me of the seizure of her baggage and of herself being turned into the street is dated "May 18, 1874," and reads as follows:

MY DEAR MR. TAYLOR: I write to you in my very great emergency to ask you what I can do; they notified me on Thursday that I must leave the Stevens House, as I owed $84. At the same time that evening seized my baggage, and would not even allow me a very small satchel with a few articles of underclothing for little Bell, and they say that they will release it upon no condition but that of my bill being paid.

There is much more in the letter which it is not necessary to refer to. The letter is subject to the inspection of her attorney.

On the 19th day of March she wrote as follows:

MY DEAR FRIEND: Can you not borrow for me the sum of $150. I am willing to pay any percentage you may see fit to charge me
392 with, and will give my note, and I will pay a thousand dollars to-day for it. Any small sum even that would take me to Toronto and pay my expenses to get there out of this city.

She says:

Direct your reply to the Hoffman House, New York.

I find the following letter, dated May 31st, 1874, from which letter it appears that I had given her some assurance that I would relieve her emergencies:

KIND FRIEND: I sincerely hope your letter will reach me with the funds to finish paying up my expenses at this house, so I can leave to-morrow night on the 8 o'clock train for Toronto, or at the very latest on Tuesday.

She says:

I hope to get away to-morrow night, to defray my expenses, and take me to Canada. I got my baggage yesterday evening and have everything packed to leave in half an hour's time. I want you to write me in
393 Toronto, kind friend, and let me know what you can advance me for a bare subsistance until my claim is such I can get you to raise sufficient funds for me to live on.

I have overlooked a letter that I received, dated the 23d of May, in hich she says:

KIND AND ESTEEMED FRIEND: Your kind favor of the 20th reached me this evening, and permit me to express my thanks and sincerely hope you will be able to make some arrangements to relieve my troubles.

I presume that this refers to the letter in which I express some hope that I could relieve her. In the same letter she says, further on:

KIND FRIEND: Please make some money arrangements for me. I am willing for it to be the most economical. I do not take it as a gift. I am willing to pay an' interest, and very liberal interest, on it.

As a mere matter of kindness and humanity I resolved to advance her myself money enough to pay her expenses there, and take her to Canada. I think the amount was $150 or $200—I have not been able to
394 put my finger on the exact amount—and on the 2d of June she wrote from the Hoffman House the following letter:

Your kind favor, kind friend, reached me safely this morning, and in two hours more I will be on my way to Toronto. Many, very many thanks for you assistance. I received a letter from the South also this morning, and it says Tucker's report in my claim has come on, and the comissioners will not allow me over $12,000. Now this is an outrage, and I will not accept it; any such outrage on humanity as that. I shall fight that claim through Congress, if I have to become a lobbyist. Senator Jones and others here promised me their influence in my behalf. My claim is a just one, and I will have my just dues.

Further on she says:

I will explain matters more fully from Toronto. With my best wish for your happiness and prosperity, God ever bless you and yours for your kindness to me.

I remain, gratefully, warmly, and sincerely, your sincere but distressed friend,

MRS. JENNIE BEMISS.

395 In her distress, and as she had advised me that she was getting or would get assistance from her brother-in-law in New Orleans after a certain period, that he was then crippled and could not collect money, I consented to advance her $50 a month to assist in her expenses, and did advance the $50 a month for several months. When I became satisfied that she had deceived me, that she was unworthy of confidence and totally unreliable, then, and not till then, did I decline to aid her any further. She writes from Ingersoll, Canada, October 29, 1875—I may get these letters irregularly, but I take them as they come in my hand—in that letter she says, acknowledging one of my letters:

I always feel and prize any advice that comes from you. I have ever striven to make it a point to tell you any and everything since my commencing or becoming your client, for you have been truly a noble and generous friend, and if I have seemed to murmur it is only seeming, for in my heart, God knows, I cannot find any fault with you, and

some day I think you will know how highly I reverence and appreciate you. I know you thoroughly understand the case, and I look upon you as almost my saviour and salvation. God knows what I would have done without your noble efforts. My prayers and blessings can avail you. With many thanks for your numerous and never-ceasing acts of kindness, may God bless and prosper you and yours.

Believing me ever and gratefully your sincere friend,

MRS. JENNIE BEMISS.

These letters, expressing the utmost confidence in my action, and gratitude for my kindness, were continued up to and after the allowance of the claim. The only complaint that I ever knew Mrs. Bemiss to make was that I had not loaned or advanced her money whenever she required it, and had not kept up a useless correspondence—an almost daily or weekly correspondence—when it was out of my power to do so, and of no benefit to her. Upon the allowance of the claim she was advised of the amount and requested to inform us whether she would accept that amount or not. I received a letter from Mr. Cyrus Bemiss, her brother-in-law in New Orleans, stating that she had consulted him on the subject, and that he had advised her to accept the amount. I had also done the same, stating to her that if she could show Congress that she had a right to a larger allowance I had no doubt that they would at a future day give it to her. She wrote to me then saying that she would accept the allowance and depend upon Congress to correct it hereafter. The case was one that gave us an unusual amount of labor and very large correspondence, and a great deal of anxiety, and I think I may safely say that we have had few or no cases, perhaps with the exception of one now pending, that has given us so much trouble, labor, professional and otherwise, and anxiety, as her case. During the progress of the case her brother-in-law wrote to me stating that a Mr. Waterman in New Orleans could be of service in the case, and asking my opinion about his employment in the case. I replied to him that that was a question which he must decide with his sister-in-law; that I could give them no advice. He said that Waterman asked 10 per cent. for his services. I told him, however, that if he and his sister-in-law thought the services were of sufficient value we had no objection to their making the arrangement, but that I must leave it entirely to their judgment. Soon after that I received a letter from Mr. Cyrus Bemiss, stating that he had become satisfied of the importance of employing this man Waterman, and that he had entered into a contract to pay him 10 per cent. in my name.

Q. Have you those letters?

A. Yes, sir; I immediately replied to Mr. Bemiss that he had no authority to use my name in making a contract with Mr. Waterman, and that I repudiated any connection with it, and that he must at once notify Mr. Waterman that I did so; that that was a matter for his sister-in-law and himself to decide. He acknowledged the receipt of my letter, and told me he thought under the circumstances that I was correct, and that I had better address myself directly to Waterman. I did so, and that contract and the correspondence in relation to the contract, developed the fact that Mr. Waterman had previously secured a contract from Mrs. Bemiss for 10 per cent. It was then supposed that he *bare*ly

wished to find the attorneys so that he could secure his 10 per cent. The contract made by Mr. Bemiss above alluded to was withdrawn as above stated. I have it now in my possession. Some time after that occurrence the commissioners resolved to examine Colonel Holabird before deciding Mrs. Bemiss's claim, and at their solicitation, I think, or was so advised, he was ordered on from Texas, where he was then stationed. He had a leave of absence which enabled him to stop but a day or two, and it was thought necessary by Judge Addis, the president of the commission, that Mrs. Bemiss should be brought on and confronted with Col. Holabird.

I then went to the War Department and to the Adjutant General's
400 and made an arrangement for the extension of Col. Holabird's leave, so that he would have time to go to New York and attend to some business and return here at a fixed period for examination. I then notified Mrs. Bemiss of the proposed examination, and that it was thought by the commissioners that it was best for her to be here, and that I thought so also, as she had stated in her deposition that she had had a conversation with Col. Holabird at the time the property was taken. She came on to the examination, was present at it, and remained here for perhaps a week. I then informed her that I desired to settle up the account of advances and loans that I had made to her, and close it by taking her note. She told me that she would be compelled to pay her board bill at the hotel here; that she had no money to take her back to Canada, and that she had borrowed money to come on, which she must repay upon her return to Canada. We figured up the amount necessary to pay her hotel bill, the borrowed money, and her return expenses, and I gave her the money, amounting, I think
401 in all, to about $150; it may have been slightly less. That amount was embraced in the settlement, and I took her note for the total amount of advances and loans—I think $800. That is my recollection now without any reference to papers. From that time on I refused to advance or loan her anything more, having made up mind definitely to close that account with her. Judge Aldis suggested to me that it would be better for me to get a power of attorney then from her so as to relieve any doubt about the direction of the draft upon the final disposition of the case, and following his suggestion I took a second power of attorney from her, and told her distinctly and emphatically what it was for and why it was done. She understood it perfectly, went to the notary's and acknowledged the power of attorney, and she understood distinctly and emphatically that she was settling up the account when she gave me her note for the amount spoken of, and expressed her thanks. She was not led
402 to believe that she was executing any other papers for any other purpose, and she knew that she was not doing so; any statement to the contrary is utterly false.

Q. While you are at that stage of the case I will ask you please to state how long you kept her here on that occasion?

A. I think she was here about a week; my impression is that it was just a week and one day, because she notified me that her weekly bill had been sent in and because it was not paid they had sent up and taken her luggage and had locked it up, and I went down the same afternoon and paid her weekly bill, and the money I gave her was sufficient to pay any other bill that might accrue from that time till the time of her departure and to take her home and pay the money she had borrowed to come on; I think it

was a week, from the fact that her bill had been sent in at the end of the week and her luggage taken because it was not paid, and I remem-
403 ber distinctly of shaming the hotel clerk for being so rude and harsh to a female.

By Mr. WOOD:

Q. Did any one of the commissioners advise her that it would be better for her to come on at that time?

A. Judge Aldis advised her distinctly that she had better come on, so that Col. Holabird could recognize her; that she might call his mind to the various acts that he did at the time and the articles that he took. It was rather fortunate that she did come on at the time, because she was able to refresh Col. Holabird's memory about some things, although he did not appear to have seen her before or to recognize her.

Q. Did you advise Mrs. Bemiss that it was necessary for her to remain in New York after she left Washington after the examination of her witnesses in the early part of 1874?

A. I did not. It was not necessary for to remain there at
404 all; so far as her case was concerned, she neither did anything nor could she do anything there towards it; I did all I could to get her out of the city here, and found it could only be done by advancing her money to pay her bill, which I did for the express purpose of taking care of her, thinking, as she so stated to me, that he, friends in New York would take care of her. That statement I found to be utterly false; that she had no friends there to take care of her. And I then had to advance money to pay her hotel bills at the Stevens House and Hoffman House, and sent her more to take her to Canada, to get rid of her in that way.

By Mr. COX:

Q. I would like you to state the services and labors actually rendered and performed in the case, Mr. Totten having put the hypothetical case that such services consisted simply in the examination of four witnesses.

A. In the preparation of such a case the correspondence involved con-
stitutes much of the largest portion of the labor. In the first
405 place we have to ascertain what witnesses are sufficiently important to bring to the city for examination; secondly, the character of the witnesses, so far as we can ascertain, their means of information, and what they know. Then, when they are brought to the city we go over the whole case with them, spending sometimes one or two days with a batch of witnesses before we go to the commissioners, in order to ascertain what they know, and what they can testify to, and in what way they know it, and how reliable they are. After examining the witnesses we take them before the commissioners, and examine them there. After the examination of witnesses before the commission we either make or have made a synopsis of all the testimony. We ascertain just exactly what points have been established by the testimony already submitted, and what points are yet to be established or need strengthening. We then look for
fresh testimony to explain or strengthen these points, and from time
406 to time this service is performed during the entire period of the pendency of a case before the commission, and until it is submitted. In this case there were four or five witnesses brought up at first from Louisiana, all of whom were examined carefully, both in the absence of

Mrs. Bemiss and in her presence. She gave us all the information she had regarding the witnesses, and what they could testify to, and after possessing ourselves of all that information—which was done chiefly through the labors of Col. Wood, my partner, almost entirely—the witnesses were taken to the commission and examined. I am unable to say how long it took for the examination, whether one or two days, but it was rather a tedious examination. Prior to that time we had gone over the same trouble with Mrs. Bemiss; Mr. Wood had examined her before the commission, taking her deposition, spending an entire day in the operation, and subsequent to that examination she was again examined to explain certain facts and points which the other witnesses had failed to explain,
407 and in connection with their testimony. We were then put in correspondence with the attorneys and others, and with Mrs. Bemiss, to get all the testimony we could. She gave us the names of quite a number of Army and Navy officers, and men more particularly, whom we were unable to find or get hold of. She gave use the name of no witness whom we considered of any importance at all who was not brought here. A great deal of time and labor was expended in trying to strengthen the case before Col. Holabird was introduced by the Government. After his testimony was taken by the commissioners—his cross-examination being conducted by myself, Col. Wood being absent—the commissioners informed me that they should be governed by his testimony, as she had previously sworn that he had taken the property. Having ascertained also that the special agent had made a favorable report in the case, and finding that we could get no other witnesses to strengthen it, we submit-
408 ted the case. After its submission a very serious difficulty arose, and it required considerable labor both through Judge Ray, Mr. Waterman, in New Orleans, and myself, to ascertain the source of the difficulty and the extent of the damage done to the case. Finally I ascertained from the commissioners that the charges made against Mrs. Bemiss were more as to her moral character; that they did not touch the merits of the case, and that they had dismissed the charges that had been made. After the case had been reported to Congress similar charges were made before the committee, as I was informed by members of the committee. It delayed a report in the case for some time, and gave me a great deal of anxiety and trouble. Finally it was reported favorably by the committee. A great deal of time and labor was devoted to urging the case upon the attention of the commissioners, referring to the various points involved in the testimony in the case, and urging them to give it an early report. We have had in our practise before the commission, which has been
409 large, no case that I remember, save one, that gave us so much labor, so much trouble, and so much anxiety.

By Mr. WOOD:

Q. In this connection, I will ask you did you not spend a great deal of time in arguing the question before the commissioners as to the amount of property that should be allowed and to prevent the reduction in the amount of the claim—certain articles of property from being thrown out of the claim?

A. I cannot say how often I saw the commissioners on that subject, but during months I labored to prevent any reduction in the claim, and did all in my power to prevent them from throwing any portion of it out. I

had learned from the report of the commissioners, in some way or other, that a large amount had been agreed upon prior to the testimony of Col. Holabird, but his testimony in their judgment did not justify the amount and it was reduced. I remember doing in this case what I never
410 have done in any other, that was going to the houses of the commissioners and appealing to them personally on the subject. I think I went to Judge Aldis' house, to confer with and appeal to him, not less than half a dozen times in this case. I went also to see Judge Ferris on the subject. In short, my sympathies were so aroused for the woman and her children that I exhausted every means in my power to produce a favorable result and a larger award.

Q. Was Col. Holabird examined more than once in that case?

A. Col. Holabird was examined twice. We spent an entire day in examining Col. Holabird, and when we got down there the following morning we found that the stenographer's notes from some cause or other had been abstracted or lost and we were compelled to go over the examination again.

By Mr. Cox:

Q. What assurance did you give Mrs. Bemiss about the amount she should properly recover?

411 A. I never gave Mrs. Bemiss any assurance about the amount. I never examined the case and wrote to her on the subject as she alleges in her deposition. Col. Wood made the examination. He found upon the examination, and I found also upon my examination, or rather when I was taking the depositions, that no paper had been filed by her original attorney, Mr. Barnitz, but the petition. We had no means of telling whether it was a good claim or a bad claim, or what amount could be allowed at all, except the fact that a large proportion of the property charged for was property destroyed of which the commissioners had no jurisdiction. Mrs. Bemiss was advised of that fact. Neither Mr. Wood or myself had any means of knowing what would be allowed, what could be recovered, or whether anything could be recovered or not, and her statement that we gave her assurances by letter are utterly false, nor did I ever verbally assure her of any such thing.

412 Q. In your intercourse with her did she seem to be capable of contracting anything?

A. She is an exceedingly sharp, cunning woman, of good education, and of as much business capacity as I have known any female to possess.

Q. Did you make any actual contract with her about advancing money for her support?

A. No, sir; I did not. At her urgent solicitation I agreed to advance her $50 a month temporarily, until her brother-in-law could recover from the difficulties which existed in Louisiana, which I continued to advance her for some months, when, as I before stated, I became satisfied that she had deceived me, and that she was utterly unworthy of the kindness that I was bestowing, and I declined to make further advances.

By Mr. Wood:

Q. Was that agreement made after the contract?

413 A. There never was any agreement; it was simply an act of kindness and humanity on my part.

Q. That was after the contract was made?

A. That was about the time, or after she left the city of New York, in June, 1874. That was a mere voluntary offer, made long after the contract in the case.

Q. Did you in any letter to Mrs. Bemiss before she came to Washington, or afterwards, say anything to induce her to believe that you would pay the expenses of the witnesses or any other expenses that might arise in the case?

A. Never. I always persistently refused to make such advances.

Q. She charges that you did before she came to Washington.

A. It is wholly untrue.

By Mr. Cox:

Q. Did she ever write to you expressing much dissatisfaction and disapproval of your conduct in the case?

414 A. No, she never did, except that once or twice in her letters said that she had not heard from me on the subject. She never expressed dissatisfaction, but, on the contrary, always in her letters expressed the utmost satisfaction.

Q. Did either you or Mr. Wood, to your knowledge, ever tell her that the papers were filed and prepared to your hands, thus making your labor less and the case easier of prosecution?

A. We told her exactly the reverse; that we were not able to find any paper whatever on file in her case except the petition.

Q. Please state what took place about the time when you were endeavoring to draw the money.

A. After the appropriation had been made by Congress, Mr. Wood wrote to her informing her of that fact, and as she had previously expressed a desire to have the draft made payable in New York, and meet Mr.

415 Wood there and get her portion of it, he informed her of the award that was made and the appropriation (she long before that knew of the award), and desired her to give instructions as to the time when she could meet him, &c., notifying her that he would let her know as soon as the draft would be issued. To that letter we received no reply. We were very much surprised at it, because we had always found her very prompt in her correspondence, rather troublesome, in fact, and we concluded that it would be best to write again, advising her of the fact and communicating that knowledge to her. Mr. Wood wrote the second letter to her. A few days after the second letter had been written Mr. E. John Ellis, a member of Congress from Louisiana, came into our office. He represented Mr. Waterman, as his attorney, in securing the interest due Mr. Waterman, the ten per cent. And he then notified us that Mrs. Bemiss was here secreted in the Metropolitan Hotel, and that she did not want

416 us to know that fact. Mr. Wood and myself then learned for the first time the reason why she had not replied to the letters written to her on the subject. She remained here until about the time the draft was to be issued, which had been delayed from various causes some thirty or sixty days beyond the usual period, and then went to the Treasury Department and did all she could to get possession of the draft, making various false and malicious statements there, but they proved of no avail. The draft was handed to me. I told the gentleman at the head of the bureau of drafts there that owing to her interference and what she had

said I preferred not to handle any portion of her funds, and asked him to divide the amount of the claim, which he did, in my presence, on a peice of paper, and then to add the interest on the note I held, which he did, and deduct the amount and interest, which, I think, was $900 or $950, probably, in gross figures, and deduct that from her one-half and
417 add that amount to the other half, which he did. I then had drafts made out in favor of herself, as the tutor of the infant heirs, for the amount of one-half, less the amount of the note and the interest, and the amount of one-half, plus the amount of note and interest, and I then took the drafts to Major Powers, head of the warrant division, and requested him to say to her that she could have the draft belonging to her as soon as she endorsed the draft that properly belonged to her attorneys, which embraced the amount, with interest, that I had advanced to her. She endorsed that draft, and I went down and collected it, and then returned to Major Powers and told him it was all right and to deliver the draft to her, and he did so. It is proper to state in connection with the payment of the ten per cent. to Judge Ray and the ten per cent. to Mr. Waterman, which I paid out of the half belonging to the firm of Taylor & Wood, that Mrs. Bemiss had, in conversation aboutt hose matters,
418 authorized me to deduct and withhold that amount and pay those claims. That was when she had come on at the examination of Col. Holabird. I told her that I would not allow her to pay the whole ten per cent. to Mr. Waterman, but that we would divide that, as I had previously volunteered to divide the half due to Mr. Ray. But upon a settlement of the case Mr. Wood and myself, in consultation, decided that we would not allow her to pay any portion of the 20 per cent. out of her share, but that we would pay the whole amount out of the 50 per cent. she had contracted to pay us, and we paid the 10 per cent. to Judge Ray and 10 per cent. to Mr. Waterman. The ten per cent. of Mr. Waterman was paid to Hon. E. John Ellis, and his receipt taken for the same.

(The receipt is offered and filed herewith, marked "Exhibit Taylor No. 2.")

Judge Ray was paid, and so testified.

419 EXHIBIT TAYLOR No. 2.

5316 Eq. Doc.

[Geo. Taylor, attorney at-law—practises in the Supreme Court of the United States, Court of Claims, and prosecutes claims before the Departments—No. 710 E street. Address, lock-box 142.]

WASHINGTON, D. C., *Dec. 4th*, 1876.

Received from George Taylor, attorney for Mrs. Laura J. Bemiss & her infant children, the sum of two thousand seven hundred and thirty-one dollars, ten per cent. on the gross amount of the award recently made to the said parties by the Southern Claims Commission.

THAD. WATERMAN,
Of New Orleans.
Per E. JNO. ELLIS,
Att'y at law & in fact.

420 By Mr. COX:

Q. That was the last you had to do with Mrs. Bemiss, I suppose?

A. I hoped that would be the last.

By Mr. WOOD:

Q. Before the contract with Mrs. Bemiss for the 50 per cent. was drawn up or executed by her, did you have any consultation with your partner, Mr. Wood, in relation to the acceptance of the 50 per cent.?

A. Yes; on receipt of her letter offering the 50 per cent., and at the time that the contract was drawn up, Col. Wood and myself had a conversation with regard to the acceptance of the proposition made by Mrs. Bemiss. As our terms for such cases had been, according to the custom here as we understood it, from 25 to 33⅓ per cent., it led us to a conversation about accepting her proposition. We finally concluded to accept that proposition, because we knew nothing of the case, nothing of our client, nothing of the trouble involved, and the mere acceptance of
421 her proposition could not prevent us from doing what we conceived to be right and just to her after the final disposition of her case. It was this conversation and the spirit that induced it that led us to the payment of the 20 per cent. to Judge Ray and Mr. Waterman out of the 50 per cent., which left us as a fee 30 per cent. of the amount That, we believed, to be a very reasonable fee for the trouble we had had in the case. I notice in Mrs. Bemiss' deposition that she says that Taylor and Wood detained her in Washington and New York several months at an expense of some $1,200 or $1,300, which she had to pay, and that she had to sacrifice her silver and jewels for the purpose of raising the money, thereby making hereself so much poorer. Her letters, which I have exhibited, show this to be utterly false; that she had no money whatever to advance or pay these expenses, and was wholly dependent upon me for the funds with which to do it, and that they did not amount to anything like that sum.

Q. Mrs. Bemiss states in her cross-examination that she never,
422 to her knowledge, saw John Ray, or held any communication with him, or entered into any contract or agreement with him whatever. Do you or not know that she has had communications with Judge Ray?

A. I know that she has had communication with Judge Ray; has addressed him on the subject, and I have one of the letters here in her handwriting, addressed to Judge Ray. The letter is dated Bond street, Toronto, Canada, June 22d, 1874, and is on the everlasting subject of raising money. I do not blame the poor woman, I suppose she needed it; but the letter shows that she not only had correspondence with him but that she knew that he was acting for her.

(The witness submits the letter referred to to Mr. Totten, complainant's counsel.)

Mr. TOTTEN. I will admit the fact that she did write to him on the 22d of June, 1874.

Mr. TAYLOR (the witness). She says here, "I never would have
423 been a tax or burden upon my noble friends, Messrs. T. & W. and yourself, but I cannot quarrel with the decrees of the Devine Being."

By Mr. WOOD:

Q. Mrs. Bemiss states in her testimony that she employed Mr. Waterman because she was informed that you were neglecting her business. State whether you ever received any communication after the employment of Mr. Waterman by her as to the object for which he was employed, and if she expressed in that connection any dissatisfaction with your management of the case.

A. I received a letter from Mrs. Bemiss after his employment, which letter I will hand to her attorney in the case, and file extracts from it, expressing her entire satisfaction with my management of the case, and stating that she had engaged him only to aid, and because she thought he could be of service down there in New Orleans; that it was not at all to interfere with me.

Adjourned till Monday, January 7th, at half-past 2 o'clock p. m.

424 MONDAY, *January 7th*, 1878.

Met pursuant to adjournment.

Present: Mr. Totten, counsel for complainant, and Mr. Cox, counsel for defendants.

On account of the non-attendance of Mr. Taylor the hearing was further postponed until half-past 2 o'clock p. m., Wednesday, January 9th, 1878.

H. H. ALEXANDER, *Examiner*.

WEDNESDAY, *January 9th*, 1878.

Met pursuant to adjournment.

Present: Mr. Totten, complainant's counsel, and Mr. Cox, counsel for defendants.

George Taylor—examination resumed.

The WITNESS. Mrs. Bemiss, in her statement, if I recollect her deposition, would appear to say that there was some misunderstanding in the original agreement; that I was to advance not only the money to prosecute her claim, but to aid her, which I deny. I have here a letter from
425 her, which at the request of counsel on the other side I submit as a whole; it is as follows:

NEW YORK, *April 4th*, 1874.

Mr. GEORGE TAYLOR:

KIND & ESTEEMED FRIEND: I enclose you a letter from my brother, received this morning. I feel worried & distressed to call upon you again. I don't see under the existing circumstances well what else I can do. My room is $14 dollars a week, washing extra, & pay for just what you eat. I have been as economical as possible; with all this I have had Dr. and druggist bill to pay. I have been expecting a remittance from my brother, but his letter this morning seems so uncertain when he will be able to send me any, I have determined to apply to you, for even a small remittance, until I can make some kind of arrangements. I'm still on the sick list, and little Belle has constant return of slow fever. The Dr.
426 says my fall was a very severe shock to my whole system, & being bodily and mentally worried it has upset the whole organization.

I received a very sweet note from Miss Compton yesterday eve in answer to mine to her, and she promised to come over this morning & spend

a social morning with me. When I first arose it was snowing, but it melts as fast as it falls. My troubles, kind friend, is all owing to the terrible condition of our country; had it not been for that I would not have had to impose upon good and noble natures. My respect for the firm of Messrs. T. & W. amounts almost to adoration. I felt confident when I left La. my personal wants could be fully supplied, and your very great kindness in furnishing for the witnesses was all I ever expected to make any demand upon your kindness. Unfortunately for me, l'homme, propose, Dieu dispose. Such is life. I saw a picture once—

Three crosses against the sky,
And the heaviest cross was the highest one,
427 Perhaps that answers why—
* * * * * *
Why comes a throbbing pain
To this heart so firm so fair,
While the crown of health & blithsome health
Some lesser angels wear.
* * * * * *
Who reads, kind friend, the riddle life aright,
And who can answer why
These clouds sweep over this young life?
Not you, brave friend, nor I.

Pardon me for indulging in this refrain and trying all your patience, when I seated myself to write you more of a business communication. Those who are noble, kind friend, of your sex, I am sorry to say, in my experience of life, are truly very few. They who nature needs copies is slow to furnish them, & there are many who fills space that could be better used, chokes products of value by their rankness, & you and I know some men who, like weeds, grows in proportion to their worth-
428 lessness. But, again, enough; it is not often I indulge in such unkind remarks; neither do I aspire to the perilous position of a wit. With my own sex I confine myself to studied commonplace, & never forget *forget* the theater on which I'm to appear or the audience. I never allowed myself but once the dangerous luxury of a female friend. Alas, the realities of life forever dissipate its allusions. Of course, kind friend, whatever you can spare I will feel more than gratified, & of course I expect you to charge me interest as much as any one else, & feel gratified to be able to get it at all.

With many thanks for past kindnesses, every good wish for health, happiness, & prosperity to the firm, believe me now and always, your sincere & grateful friend,

MRS. JENNIE BEMISS.

She speaks in her deposition of my agreeing to advance her $50 a month to aid her in her expenses. I have a letter here bearing upon that point, which I submit. It is as follows:

429 [Mrs. Grace Birnie, 110 Bond street, Ontario, Canada.]

TORONTO, CAN., *June 6th*, 1874.

I fear, kind friend, you may think me very remiss in not fulfilling my promise to write the day after my arrival in this city. I was very ill coming over on the cars, & came very near entering the spirit land without knowing how I got there. I knew e're I left N. Y. my intense suffering

must result in a complete breaking up, but the attack was more sudden & unexpected. I am now confined to my bed, so you will pardon my writing with a lead pencil. I was afraid you might consider me neglectful of your kindness. Please let me know if Mr. Ray has arrived in Washington, as I want to write to him as soon as possible. Mrs. Birnie's school closses in about two weeks & a half. I am trying to make arrangements to go way up in the country, to get board as cheap as it is possible for human beings to live. Can you, Mr. Taylor, allow me $50 dol-
430 lars per month until I can realize on my claim. My lettter, received from the South the day I left N. Y., dated 29th, said Judge Ray would leave the next week for your city. If the Southern Com'issioners cut me down, Mr. Taylor, I will not accept it. I can sustain my right, and will do it, & shall fight the case through Congress. I have Senator Jones' promise to give me his influence, & Lieut. Whitehouse & other's aid I can call into use. Can set at defiance any mean'ess of the commissioners. Let me know, Mr. Taylor, exactly how I stand. Surely, with the evidence you have, you have not lost confidence in my claim, as honorable & just a one as it is. Have my rights, I will, if I have to make a personal appeal in the Senate. Kind friend write to me at once. Give my address to Mr. Ray, and ask him to write to me. I am so weak I will not be able to say any more in this letter, but hope to hear from you as soon as you can write. I am at Mrs. Birnie's; of course I shall
431 have to pay her board for the two or three weeks that I remain here; it is cheaper than anywhere else. They insulted & stole from me at the Stevens House, being alone & unprotected. I had to submit to the robbery to get my baggage released at all. I arrived in Toronto with $300 dollars in greenbacks. God knows the promise to the widow & orphans with as just grounds of right as mine is, must & will be fulfilled. Now, by man's vill'any alone, the skeins of life may seem crossways & tangled, but there is a warm, healing, invisible hand that makes crooked straight & the rough plain.

My kind regards to the Col., & with heartfelt thanks to yourself, & every prayer for health, prosperity, & happiness, now & forever, your warm, sincere, & appreciative friend,

MRS. JENNIE BEMISS.

P. S.—ESTEEMED FRIEND: Just received your valuable letter, & will write my friends at once your valuable advice. Many thanks. I
432 will do all to get them to follow it. You have cheered me by your kind advice. I am so weak I cannot write more or try your kind patience.

Mrs. Bemiss says, in one of her answers, that she employed Mr. Waterman, of New Orleans, because we were neglecting her case. In contradiction of that statement I submit an extract from one of her letters, dated August 27th, 1875, in which she says:

DEAR SIR: Yours of August 26th, with enclosure, came safely to hand to me to-night. I note Mr. Waterman's letter, and think it advisable to act upon his suggestions. You can rest assured there has been no interference on my part—simply to aid you as well as myself by giving points

to my brother-in-law & Mr. Waterman which would enable them to prove for you the quantities taken & also the values.

I have various letters here from her, expressing her entire satisfaction, confidence, &c., in our management up to and after the award,
433 as late as February. I submit the following letter:

BRANTFORD, ONTARIO,
Kerby House, April 19th, 1875.

KIND FRIEND: Please write me, and will you not let me have one hundred dollars now, even if you will not consent to allow me something on my claim? You promised me so kindly when you bid me adieu you would see Judge Aldis, & see what you could do for me!! I'm willing to pay you, kind friend, any interest you choose to charge me with. "Necessity now knows no law." But you certainly are a good judge of human nature, and know me well enough to know I would not do anything that was not right & just—just to you as well as to myself—& though words may seem so empty now, God grant the day will come when it will not be words, but by life-long mine and my children prove a sincere appreciation of you. Do write. Please write, & let me have at least this $100,
434 even if you will not consent to anything more. God grant you will feel different & kindly towards me. With kind regards & every good wish for health & life-long prosperity, believe me, sincerely your friend,

MRS. J. BEMISS.

I submit also the following letter:

BOX 62, INGERSOLL, *Dec. 18th*, 1875.

MR. GEORGE TAYLOR:

ESTEEMED FRIEND: I suppose in a very short space of time now I will know the decision of Congress in my claim. I write to ask you when the decision is made will you be kind enough to let me have $100—one hundred dollars? Since I last wrote you I have been very ill with an attack of inflam'ation of the stomach. I am in terrible distress for money to get absolute necessities. If you would grant me this boon I assure you
435 it would be highly appreciated. I hope the day will come when I can prove my high appreciation of your kind acts in my behalf. Please let me know, kind friend, if you can advance me the amount I ask for; if not, I must see what I can do through other parties. I would rather do it through you than any one else. Necessity such as mine knows no law. I assure you I never would ask it if I had not been driven by dire necessity. It is bitter, bitter cold for this season of the year, yet the atmosphere is very dry & bracing. I am not able to leave my room yet, but hope to get out and around in the next two or three days. It is magnificent sleighing, and the little town seems to be all life & animation; each & every one seem preparing with so much eagerness for Christmas. I wish I could sleep "Van Winkle's sleep." Christmas week always gloomy to me. A sister and husband taken from us at that time, and now another one gone, gone forever! Please, please, dear friend, grant
436 me the favor I ask, & let me hear from you at your earliest possi-

ble convenience. I have not any time to lose. God bless you & grant you a more than prosperous new year & a merry Christmas with with your loved ones. Kind regards & good wishes for you & Col. Wood.

Believe me, ever & always, sincere friend,

MRS. JENNIE BEMISS.

I also offer the following letter, written within a few days of the award:

BOX 62, INGERSOLL, ONT., *Nov. 16th*, 1875.

To Mr. GEORGE TAYLOR.

DEAR SIR: I wrote you in answer to yours. Not knowing whether mine reached you I write again, as there is no time now to discuss the justice & equity of the allowance, to take whatever the commissioners allow, even though it is a mere pittance, and in no event allow my claim
437 to lay over another year, so it is best in my lowly condition to accept a pittance of a *a* loaf rather than no loaf. Keep me advised in regard to matters & things. Things look bleak & dreary; genuine winter has set in in this region. We are now enjoying, looking at it, a heavy snow-storm. There is something attractive looking at it, but not in being out in it. I want this to go in this mail, so excuse the hurry.

With kind wishes & regards I remain very truly & sincerely your freind,

MRS. JENNIE BEMISS.

I reserve the right to file such additional as I think important in looking over my papers.

By Mr. COX.

Q. I will ask you to state what, in your practise, has been in such cases the usual charge agreed upon and paid.

A. The customary fees in our office vary from 25 to 35 per cent.
437½ The most of the cases from Louisiana and a portion from Southern Mississippi in our office pay the various attorneys engaged in them 50 per cent. I had several cases from Southern Mississippi, some them allowed, and some of them not yet disposed of, before the commission, in which 50 per cent. was the contingent fee agreed upon. Mrs. Degges' claim is one which paid 50 per cent. She was a widow with children. She made her contract with Judge Ray for Judge Ray and myself to prosecute the claim, Mrs. Chotard paid 35 per cent.

Mr. TOTTEN. This kind of testimony is objected to because it is irrelevant.

The WITNESS. We have about two hundred cases in the office now from Louisiana and Southern Mississippi, with contracts for the payment of 50 per cent. to the attorneys engaged. I will say that in our practise, where no contract is entered into, the first amount stated, to wit,
438 from 25 to 35 per cent., is generally charged, depending altogether upon the labor performed in the case *where* it is more than 25 or less than 35 per cent. The practise of the attorneys with whom I have been associated in the prosecution of these cases has always been to charge 50 per cent. where any advances have been made for bringing up witnesses and other expenses in the prosecution of the case. I know of no case in my experience that varies from that.

Cross-examined by Mr. TOTTEN.

Q. Who examined the witnesses before the Claims Commission?

A. Colonel Wood.

Q. Were you present at any of the examinations?

A. I was present at part of the examinations, and present at the examination of Col. Holabird by the Government.

439 Q. How often was Holabird produced?

A. He was first stopping here two or three days, and the commissioners and myself had various interviews about his examination. In order to secure his examination it was necessary to get an extension of his leave, which I got through the War Department. He left the city for a short time, and upon his return two days were occupied in his examination. Mr. Wood has charge chiefly of the business before the Southern Claims Commission, examining the cases and attending to the examination of the witnesses.

Q. Do you know the names of the witnesses who were examined in behalf of the claimant before the commission?

A. I could not recollect the names of the witnesses now.

Q. Can you recall them if I name them to you?

440 A. I do not think I could, with the exception of one or two.

Q. The Government examined Col. Holabird, did it not?

A. Yes, sir.

Q. There was one deposition that is on file.

A. Yes, sir.

Q. You took two depositions of the claimant; one before Holabird and the other afterwards, is not that so; and they were nearly a year apart, were they not?

A. My recollection is that Mrs. Bemiss was examined first in the case, and secondly a further examination was made after the first batch of witnesses were sent up, but I have not examined the dates of the depositions or looked at them in reference to that matter.

Q. Well, the witnesses who were sent up here by Mr. Ray were

441 four in number, were they not?

A. I do not remember whether they were four or five, or what number they were.

Q. Well, the depositions were all fastened together, do you mean?

A. I apprehend so, as they were all taken at the same time.

Q. The deposition of F. L. Claiborne was taken?

A. Mr. Claiborne was one of the witnesses.

Q. E. S. Jewel was another one?

A. Yes, sir.

Q. Then another man's name was Levi Scott?

A. I do not recollect.

Q. Do you recollect Dick Madison?

442 A. I do not recollect that name. There were two or three colored men and two or three white men; I do not recollect the names of the colored men.

Q. There were four sent up by Ray's influence?

A. I do not know that.

Q. Were there more than four or five?

A. There were four or five; I was not present at the examination of

those witnesses before the commission, but was present with Mr. Wood at the office and examined these witnesses, and went over their testimony to see what they could establish; there were four or five of them, but the exact number I cannot state.

Q. Will you please state what particular professional labor was rendered by you or Mr. Wood about this claim after the report was sent to Congress?

443 A. After the report was sent to Congress I went to the committee half a dozen times, I think; went to individual members of the committee quite a number of times. There was some difficulty in the adjustment of the matter, which I learned through the clerk more particularly, and I tried to ascertain what that difficulty was, and to meet some objections which I understood had been telegraphed against the claimant from New Orleans after the award had been made, and I think it was included in their report, but not sent in with the first report; it was sent in as a supplementary report. An attack was made upon Mrs. Bemiss and her case by parties in New Orleans, and it was with a good deal of difficulty that that trouble was removed. Finally the party who made the attack was brought up here, and the commissioners informed me that the attack was against her moral character more than against her claim, and that they did not see what that had to do with her claim, and that, therefore, they would not recognize the attack made upon her.

444 Q. Did you make any professional or legal argument in the case at all to anybody?

A. Only occasionally in meeting various points before the commission, and that was done at various times.

A. Was it done before an individual member of the commission, or before the commission as a body?

A. Before individual members of the commission chiefly.

Q. Were those arguments of yours made in writing or verbally?

A. Verbally generally; I do not know that I made any argument in writing; I do not think there was any argument made in the case in writing.

Q. Well, the arguments that you did make were nothing more than casual conversations with the commissioner who happened to be

445 present?

A. In the management of these cases before the commission it is a constant source of care and labor from the time you commence taking depositions until the report is made by the commission, and until, in fact, the appropriation is made by Congress.

Q. What do you mean by the word labor? You have used it a great many times in your deposition; please explain your meaning.

A. I mean professional labor and labor of all kinds connected with the case—correspondence, and looking after the case before the commission, inquiring into its position, its character, and in reference to the evidence already taken—to ascertain what is proved and what still remains to be proved.

Q. Did you ever try a case in a court of chancery or law court

446 outside of a Government claim?

A. Oh, yes; very many.

Q. Does the labor involved in the conduct of a case before the Southern Claims Commission exceed that which is necessary to carry on an ordinary equity suit, or a suit at law?

A. I think it does very much exceed that, because it is a constant labor, and you are compelled to hunt the witnesses up, where you are acting for a women who is not supposed to be sufficiently acquainted with all these things.

Q. But you say this women employed Mr. Ray to hunt up the witnesses. That relieved you of that labor.

A. You are mistaken about that; she employed Judge Ray to send up the witnesses; to advance the expenses, to ascertain what additional witnesses could be had there for the purpose of giving me the names of the witnesses that she had, and those that she wished to be examined,
447 and also to ascertain whether such witnesses were worth sending up; that is, whether the testimony they would be able to give was of sufficient importance as to justify incurring the expense of sending them up.

Q. From whom did you get this information?

A. We got the information chiefly as to the witnesses from the claimant. In the first place, the rules of the commission require that every petition shall state the name of the witnesses by whom the claim can be sustained in one distinct batch, and they must state by whom the loyalty of the claimant can be established; and, secondly, the names of the witnesses by whom the seizure and appropriation of the property and its value can be established. But you are not confined to this list at all in the progress of the case. You can take any other witnesses. Some names were necessarily embraced in this petition under the rule, and then when the
448 claimant came here she gave us the names of all the other persons whom she could suggest, who would know something about her loyalty, the loyalty of her husband, and the character and value of the property; among the rest the names of officers of the Army and Navy and of her servants down there.

Q. Did the petition contain all those names according to the rule?

A. I cannot say what names the petition contained; it must necessarily have contained some names, because the rule required it, but whether it contained all or a part or any portion of the names mentioned I am not prepared to say.

Q. Did you ever make any argument before a committee or subcommittee of Congress touching this claim?

A. No, I never made an argument before the committee or a subcommittee; I went up there to ascertain from the committee the objections to the claim, and appealed to the committee in committee to hear me
449 on the subject, and on every question that could arise in the matter.

Q. Did you prepare any affidavits or other papers, or take any depositions for the information of the committee of Congress in charge of this business, or for any subcommittee?

A. I did not.

Q. You never did anything more than to go and see individual members of the committee, and to ask for a *a* hearing from the committee itself, did you?

A. The committee itself, if they desired it, or it became necessary.

Q. They did not give you a hearing, did they?

A. I was notified by the chairman of the committee, Mr. Eden, that it

was un'ecessary; that the objections made to the claims would not be recognized.

450 Q. Did the chairman, Mr. Eden, tell you that he did not want you to come to the committee any more about this case?

A. I do not know that he used that exact language; he told me in his own room that it was not necessary to give myself any further trouble about the matter.

Q. Did he send you word by the clerk that they did not want you to come there any more?

A. No; he did not.

Q. Did the clerk tell you that he did?

A. I have no recollection of the clerk telling me any such thing. The clerk behaved very badly about it, and gave some false information, and I denounced him as an unworthy fellow, and made a complaint to the chairman of the committee.

Q. What was the result of the complaint?

451 A. Well, sir, I never paid any attention to the result. I simply made complaint of his conduct as in violation of *t*his duty as clerk, and paid no further attention to it.

Q. What additional labor—professional labor I mean—was imposed upon you in consequence of the charges which you were informed had been made in the commission against Mrs. Bemiss' moral character?

A. It involved the writing of several letters to New Orleans—one to Judge Ray, one to Mr. Waterman, and one to Mr. Cyrus Bemiss, giving them all the information I could collect on the subject, and asking them to investigate the matter and let me know the result. I then saw Judge Aldis, and I was going to see Judge Ferris, but I am not positive whether I saw Judge Ferris on the subject or not. After getting all the information I could on the subject, and the reports from New Orleans, Judge Aldis informed me that the complaint or the letters sent up here

452 wholly against her moral character, and did not effect the merits of the claim.

Q. Did you usually have your conversations with the members of the commission in their public office or in other places wherever you could get an opportunity?

A. Where I got an opportunity; I went there repeatedly to have conversations with them, and had conversations with the gentlemen in their private rooms. In this claim, and I think perhaps the only claim that I did vary my practice in that particular, I went to the house of Judge Aldis, I think, several times on the subject, and Judge Aldis requested me to go and see Judge Ferris, and I went to see him at his house. My recollection of my first call on Judges Aldis and Ferris is that it was to urge early action in the claim in consideration of her great necessities.

Q. She was very poor, was she not?

453 A. She pretended to very poor.

Q. Have you any reason to doubt the fact?

A. Well, I do not believe anything she says or anything she pretends.

Q. Well, do you have any reason to think she was not very poor?

A. I have reason to know that she was receiving money from her brother-in-law in New Orleans, and that she stated in one of her letters that she expected to receive a portion of her mother's estate after her mother's death.

Q. Do you know of what profession Mr. Bemiss was?
A. He was a lawyer, so I was advised.
Q. Did he live in New Orleans?
A. Yes, sir; Gordon & Bemiss was the firm.
454 Q. Do you know where Mr. Gordon is now?
A. I do not. My impression is Mr. Gordon is dead.
Q. Are you a member of the bar of the supreme court of the District of Columbia.
A. You put that question the other day to Mr. Wood as to himself; I do not know whether you did as to me, and I then thought whether I had ever been admitted or sworn in as a member of the bar or not, and I really do not know, but I have practised at the bar here; I have practised here ever since I have been in the city; I really cannot say whether I have ever been regularly admitted or sworn in, or whether it was a mere matter of courtesy as an attorney; I am a member of the bar of the Supreme Court of the United States, and have been for many years.
Q. How long have you resided in the city of Washington?
455 A. I have resided in the city of Washington since November, 1865.
Mr. TOTTEN. I admit that upon a final settlement between the witness (Mr. Taylor) and Mrs. Bemiss, she gave Mr. Taylor her note for $800, which was paid at the time the claim was paid, together with interest.

GEO. TAYLOR.

Sworn to and subscribed before me.

Adjourned.

456 SATURDAY, *April 20th*, 1878.

Met, pursuant to notice:

Present, Mess. Cox & Wood, for defense, and two witnesses for the same. Defense proceeded as per agreement, as counsel for complainant was not present.

Whereupon JOHN H. SULLIVAN, a witness of lawful age was produced, sworn, and examined upon the part and behalf of the defense as follows:

By Mr. WOOD:

Q. What is your residence?
A. Rapid's Parish, Louisiana.
Q. How long have you resided there?
A. Twenty or thirty years.
Q. What is your occupation?
A. Planter, at present.
Q. Are you a lawyer by profession?
457 A. Yes, sir.
Q. Have you been engaged in the prosecution of claims?
A. I have. I have practiced law in Virginia and Louisiana, and was parish judge for the parish of Rapides, La., for awhile.
Q. Where did you first commence the prosecution of claims—become interested in claims?
A. I first commenced taking up war claims for prosecution against the Government in the fall of 1869, and have been at it more or less ever since.

Q. Have you had any claims before what is called the Southern Claims Commission?

A. I have gotten up fifty odd claims which were placed before the Southern Claims Commission, in all of which I had considerable interest.

Q. State what fee you received in those cases; what was the commission.

A. The fee agreed upon between the attorneys and the agents
458 and the claimants was 50 per cent. of the amount realized, the claimants paying all expenses, excepting the attorney's expenses for travelling, &c. The attorney paid the expense of taking the testimony.

Q. Have you had any case or been connected with any case in which a less commission than 50 per cent. was agreed upon between the attorney and the claimants?

A. I have not.

Q. Independent of the cases in which you have been personally interested, state what you know in regard to the uniform rule with reference to the matter of fees in cases before the Southern Claims Commission, that is, cases coming from Louisiana.

A. So far as I know that is the customary fee—50 per cent. of the recovery, and I believe that to be the custom so far as I have ever heard; I know of many more cases than my own, in all of which where I have
459 ever heard the fees spoken of it was said to be fifty per cent. It was considered the custom so far as I know.

Q. What is your opinion based upon? Is it based upon your experience in the Southern Claims Commission, as to the uncertainty of the allowance of claims there as compared with other departments and courts generally?

The WITNESS. The probabilities of recovery you mean?

Mr. WOOD. Yes; the proba'lity of recovery.

A. Well, you would do the work probably of half a dozen claims to get one through; that is, you may lose the other five.

Q. In regard to the amount allowed as compared with the amount claimed in such cases, state whether it is or is not usually cut down very much by the commission?

A. In regard to that point my observation has been that it has been cut down a third to a half of the amount claimed usually; but I have
460 seen cases though in which the proportion was much larger than that; about one-half of the amount claimed would be probably the amount allowed, where it was allowed at all in a claim.

Q. Suppose a case of a party taking a large claim from Louisiana, not knowing the character of the claimant or of the claim, and the party taking the claim is paying the expenses of bringing on the witnesses and also paying a local attorney in Louisiana to attend to the matter there in getting up witnesses and superintending the matter there, the claim proving to be a very laborious one, what commission, or what do you think in that case would be the minimum commission which ought to be paid to the attorney in such case?

A. I think that the attorney should have returned to him the amounts of money advanced and he ought to pay the expenses of taking the
461 testimony, that is, of employing an agent out there to take the testimony, but I think he ought to realize 50 per cent. clear. That is my notion of it.

Q. Is that notion of yours that the attorney should receive 50 per cent. after paying the expenses of the witnesses and of taking the testimony and of paying the local attorney out there, is that opinion based upon your experience and what you know as to the uniform rates of charge made by attorneys usually in such cases?

A. It is based upon my experience and my practice, and what I have learned from other parties who were concerned in these claims; my idea being this, that the attorney should get his fifty per cent. If he has advanced money to the claimant I think that money should be refunded in addition to his getting his 50 per cent. That is the course that I pursue.

Q. Of course those fees are to be entirely contingent upon success?

462 A. Yes, 50 per cent. should embrace all attorney's services, including the resident and local attorney.

Q. You say that you have practised law in Louisiana?

A. Yes, sir.

Q. And been a judge of the probate court of the parish?

A. Yes, sir.

Q. Please state what are the powers of the natural tutrix in Louisiana?

A. Well, it is about equivalent to guardian in a common-law State; she takes charge of her minor children. In case of the death of the father the mother becomes the natural tutrix of her children and takes charge of the property of her children until a tutor is appointed by the court. If there is none appointed she takes possession of it and she is responsible.

463 Q. Has she the powers of an administrator to bring suit for the benefit of the children?

(Objected to.)

A. Yes, sir.

Q. And to contract for reasonable attorney's fees?

(Objected to.)

A. Certainly; she could not of course sell real estate. A tutor regularly appointed could not do it.

Q. After she is confirmed by the court as natural tutrix would she have the rights of an administratrix to sue for the rights of the heirs and make any contracts that are necessary?

(Objected to.)

A. Certainly.

By Mr. Cox:

Q. Does she sue in her own name?

A. Yes, specifying that it is as natural tutrix. She could bring suit for the recovery of property and act as the natural tutrix of her chil-

464 dren, and she would be bound for lawyer's fees, and the court would make the minors pay just exactly as if she were appointed. She could not alienate property without the advice of the family meeting.

Mr. Wood. In this case she has been appointed by the court as natural tutrix of the children.

The Witness. Well, then, if there was no conflict between her and the minors she had a perfect right to make the contract.

465 Saturday, April 20th.

JOHN H. SULLIVAN.

466 THES. H. M. MCPHERSON, a witness of lawful age, produced, sworn, and examined on the part and behalf of the defense, as follows:

By Mr. WOOD:

Q. State your residence and occupation.

A. I reside in this city; my office is 1113 F street NW. I am a lawyer by profession.

Q. Are you engaged in the prosecution of claims?

A. I am.

Q. How long have you been so engaged?

A. Well, I have been prosecuting law and claims for the last ten years or more.

Q. Have you had many claims before the Southern Claims Commission?

A. Yes, sir; I have had quite a number.

Q. State what you know in regard to the usual fee or commission charged in cases before that commission.

467 A. My usual fees in cases before the Commission of Claims is from 25 to 50 per cent. on the amount recovered.

Q. In cases where the expenses are paid by the attorneys what is the usual commission or fee charged?

A. Well, it is about 50 per cent. I have a case of my own wherein myself and the attorneys associated with me get 50 per cent., and the claimant pays the expenses of taking the testimony or bringing the witnesses here to Washington.

Q. Do you know of any case where a less commission than 50 per cent. has been charged, where expenses have been paid by the attorneys?

A. I do not.

Q. Well, independent of your own cases, what do you understand to be the general rule or rates of charge before that commission in

468 cases where the expenses are paid by the attorneys?

A. Well, my knowledge in regard to that is, that it is usually 50 per cent. where the attorneys pay the expenses. I know attorneys associated with me have charged 50 per cent. for this class of cases and the claimants have paid expenses.

Q. And the claimants paid the expenses themselves?

A. Yes, the expenses of taking the testimony; of course not in regard to expenses for travelling or anything personal.

Q. From your experience before that commission state what you know, or what your opinion is, in regard to the uncertainty of allowances on the risk attending advances?

A. There is considerable uncertainty in the allowance of claims and also risks.

Q. How does that certainty compare with the certainty in the Court of Claims or other places?

469 A. It is more uncertain than the Court of Claims because the manner of taking testimony is entirely different; where the claims are of large amount the expense is very considerably greater than in the Court of Claims in taking testimony, because in cases over $10,000 the witnesses have to be brought on to Washington, and that makes the expense greater; whereas in the Court of Claims you can take the testimony

anywhere for any amount. The testimony in the Court of Claims is taken upon notice and opportunity given for cross-examination.

Q. Suppose the case of an attorney bringing on witnesses here or arranging with parties to bring on witnesses, also paying the expenses of a local attorney to attend to the case in Louisiana, what would you consider as a minimum fee in such cases to the attorney here, he paying all these expenses?

A. I should think 50 per cent. would be a reasonable fee.

470 Q. From your knowledge of such claims and their allowance can you form any correct estimate from the amount claimed in a petition as to the amount of allowance that will be made in such cases?

A. None whatever; the usual allowance ranges from one-third to one-half of the amount claimed. I believe it is, but that depends somewhat on the nature of the claim. It depends upon the nature of the claim and the articles or items claimed.

THEO. H. N. McPHERSON.

Sworn to and subscribed before me.

H. H. ALEXANDER, *Examiner.*

471 WASHINGTON, *Monday, April 22d,* 1878.

Met pursuant to adjournment.

Present: Messers. Cox and Wood, for the defense, and one witness for the same.

Defense proceeded, as per agreement, in case counsel for complainant would not be present.

JAMES H. DENVER, a witness of lawful age, was produced, sworn, and examined on the part and behalf of the defense, as follows:

By Mr. WOOD:

Q. Please state your residence and occupation?

A. My residence proper is in Ohio, but I have been a practising lawyer in Washington City since the spring of 1865. I have had an office here during all that time.

Q. State whether you have been engaged in the prosecution of claims.

472 A. I have.

Q. Have you had many cases before what is called the Southern Claims Commission?

A. I had some there.

Q. Please state what you know in regard to the usual practise with reference to fees charged by attorneys in cases before that commission.

A. The fees ranged generally I think from 25 to 50 per cent., according to the character of the cases and the difficulties involved; an old chronic case would be worth 50 per cent.; a plain case, involving a good deal of money, might be taken for a little less than 25 per cent.; but I should say from 25 to 50 per cent. was about the range.

Q. Do you mean to say that there are cases which you would hesitate to take even for 50 per cent. before that commission?

473 A. Well, I would not care about charging more than 50 per cent., if it were worth attending to at all.

Q. That is not what I mean. Are there not cases that you would not take on any condition?

A. Oh, yes; a good many cases which I would not undertake on any condition, and the uncertain manner in which everything is done in that commission made it very undesirable for a person to have a case there at all.

Q. In cases where the attorneys arrange for bringing the witnesses from a distant State—say Louisiana or Mississippi—what has been the usual practise, so far as you know, in regard to fees before that commission?

A. Where the attorney had to pay the expenses of getting up the evidence, and looking entirely to the recovery in the case, I should
474 think that he ought to have at least 50 per cent. I would not undertake a case for less than that.

Q. Suppose a case in which the attorney had not only arranged to pay the expenses of bringing on the witnesses, and actually paid them, but had also paid a local attorney where the claim arose for getting up evidence and superintending the case, say, 10 per cent. of the claim, and in addition to that had also made advances to the claimant, amounting to some $800, to support her and her children during the pending of the claim, the only reliance of getting it back being upon the allowance and payment of the claim—its recovery—what in such a case would you consider to be a reasonable compensation?

A. Well, I should think 50 per cent. would be reasonable in a case of that sort, unless the amount was very large; that might make some
475 difference. Say, if it was $100,000 that was recovered, why you could afford to do it for less.

Q. Suppose, however, that the amount claimed was $120,000, and in looking over the petition you found one of those items alone amounting to $45,000 was for destruction of gin-houses and other property, and considering the uncertainty of the allowance of claims before the Southern Claims Commission and the difficulty in proving up generally the items as claimed in a petition, and the way in which they are cut down—in such a case as that, where the attorney raised the money for paying the expenses of bringing on witnesses from Louisiana, and also paid the local attorney employed by the claimant herself to superintend the case and get up evidence there, do you think that 50 per cent. would be too much?

A. I think not, because an attorney who takes a case of that
476 sort, as soon as he looks at it, will know whether there is a probability of recovering it. It is not the amount that is claimed, but the probability of recovering, that you count when you make your contract.

Q. Well, so far as your own experience goes before that commission, and from what you have heard from others practising before it, do you think that attorneys could judge with any degree of certainty as to the amount of recovery from the amount claimed in the petition without having any testimony, before any testimony is taken?

A. Before the testimony was taken they could form no opinion at all, except in such a case as you mentioned before; that is, where it was only for damages.

Q. You mean that as to such items it would not be allowed?

A. Yes; they would not be allowed, but as to what their de-
477 cision would be in any case, either before or after the testimony was taken, you could form no opinion at all. They were governed not by evidence but by their caprice. I know of cases that they decided without

one particle of evidence to sustain them, while all the evidence was on the other side.

Q. Do you mean cases that they have rejected without evidence to sustain their finding?

A. Yes, sir.

J. W. DENVER.

Sworn and subscribed before me.

H. H. ALEXANDER, *Examiner.*

Adjourned.

478 EXHIBIT No. 1, WOOD.—*Filed Apr.* 27, 1878.

PECAN GROVE PLANT.,
(*Near Plaquemine, Iberville Parish, La.*) *Oct.* 12*th.*

To Mr. GEO. TAYLOR, *Washington, D. C.:*

DEAR SIR: Having a large & important claim against U. S. G., & not being satisfied with the lawyer who has it in charge, I am exceedingly anxious to transfer it into your hands. Mr. Robert Bradford, Washington City, has had the claim for nearly one year. With the facts I have I certainly think I ought to be successful. I hope in a day or two to send you a statement of the property taken. I am now a widow, with 3 small children. I was residing in one of the largest sugar estates in La., opposite Bayou Sara, Point Coupé Parish, at the time Gen'l Banks' army passed down & crossed the river at our place, Lakeland plantation, and took everything, not even leaving a chicken on the property. They
479 camped on the plantation eight or ten days. Before the whole fleet got over they loaded the steamer St. Maurice—a large steamboat—with all the stock, sugar & molasses; the Navy also took a good supply.

Mr. Bemiss was not in the army, & did not vote for secession. I am confident, with many little details & coming in contact with many of the Federal officers that are very kindly disposed towards myself, & had the highest respect for my husband, whose health was very bad, that the Court of Claims might make my cases an exception, could I get to Washington. I am now making every effort, & would have left La. in Sept. had it not been for the great pressure in money matters. My means is very limited, & I wanted to go to Canada to educate my little girls, and, as living is cheaper there, I can, I hope, be able to save the neces-
480 sary funds that will defray my expenses to Washington. (I'm willing, Mr. Taylor, to give one-half of this claim.) The Federals burnt the sugar-house, one of the finest almost, in La. The papers I send you will show you that I went to Point Coupe & got all the testimony there, &, to be accurate in my statement, I had the corn-cribs measured. The papers have all been filed in Washington City. Gen'l Emery, in N. O., says my claim is just, & you will find his letters with several others; their whole testimony is in my favor. Another important witness of mine in Lieut. Whitehouse; his father is Bishop Whitehouse, Chicago, Ill. Lieut. Whitehouse is in the U. S. Navy, & you can find out from Secretary of the Navy his whereabouts. My last letter was directed to the care of his brother in Chicago; not receiving a reply, I fear it has not reached him, so I wrote a few days ago to Bishop Whitehouse, & as
481 soon as I get his answer I will forward it to you. Lieut. White-

house was then paymaster on gunboat Choctaw, Capt. Comwell commander; the Choctaw laid for one year & half opposite my house, & not a day or several times a day that the officers were not at the house. Mr. John Rawle, of Natchez, referred me to you, & he can give you all the necessary information of who I am. I'm confident my papers in Washington will give you information which will satisfy you in regard to any loyalty & everything that is necessary. It would take quite a fortune for me to bring my witnesses on to Washington City, and as mine was supplies that went greatly to facilitate them in taking Port Hudson, I think, as I am a widow with three minor children, the U. S. G. will certainly pay for provisions that done them such an immense service. Capt. Comwell often said to me (he died in France just after the war) that Gen'l
482 Banks would have had to evacuate P. Hudson if the men had not got the supplies from our place that they did. My mother-in-law was also a widow, & had twelve thousand dollars in *the* my husband's plantation. I am making desperate efforts, Mr. Taylor, to reach W. City, & just as soon as I can get the funds I will be on; in the mean time let me implore you to do all you can for the widow & orphans, &, believe me, your efforts will certainly be crowned with success. With many thanks, and hoping we will soon meet,

I remain, very respectfully,

Mrs. LAURA J. BEMISS.

Widow of John Bemiss of the parish of Point Coupe Parish, La.

If I should leave La. sooner than I expect I will telegraph you from N. O.

483 You will see by one of the letters I send you an acknowledgement of $50 dollars to pay expenses of Mr. Bradford to Chicago to take testimony. It was just at the time of the Chicago fire, & he did not get there to see Major Oldershaw, who is an old friend & was in the U. S. Army. His letters are all with my papers in Washington City. Col. Geisler's also was with Col. Gurnney, A. T. cavalry; they were in command at Morganza, which was only 7 miles from my house, and were the officers who had the order to burn the sugar-house as military necessity.

484 EXHIBIT WOOD NO. 2.—*Filed Apr.* 27, 1878.

PECAN GROVE PLANT,
(*Near Plaquemine, Iberville Parish, La.*), *Oct.* 27*th.*

Messrs. TAYLOR & WOOD:

Your welcome letter of Oct. 21st is just received & in reply I will say Mr. Bradford has all the evidence. I have been collecting it for 18 months, & as it was procured forwarded on to him. So I shall urge you to see him or Mr. B. & get it & let me hear from you at your earliest convenience. I think I will be able to send you more evidence in a few days, & I can get Gov. Kelley's & Casey' recommendation, if you think it desirable. Mr. Taylor, with the influence of the Federal officers, by my coming on to Washington City, I feel confident I can do away with all evidence having to be

brought on there. You know in the present depressed condition of affairs it would take a very large amount of funds to bring the witnesses
485 to Washington. For instance, the negroes are very valuable evidence; at least I've been assured of this by Federal officers. I can get more witness' North & in Washington than I can now find in the South—Northern people—& I've been told they are better *better* than Southerners. I've written again to Lieut. Whitehouse, whose letters are very strong in my favor, & ought to be filed in my papers in your city. I'm in correspondence with his father, Bishop Whitehouse, of Chicago, & enclosed a letter last week to his son, Edward A. Whitehouse, in the Navy, & belongs to the scientific survey in the Pacific, Sandwich Islands, care American Consul. Col. Gerney, another witness, is in N. York City. Gen'l Lawler, I have not been able to find, nor can I find Lieut. Munsey, who was on gunboat Choctaw, under command of Capt. Cornwell. I can get you, in two weeks, all the necessary information you may desire from this land. Keep
486 me posted what you require, & rest assured you have found one who will obey your mandates to the letter & give you all assistance you may require. See Bradford; I know he has papers, or can tell you where you can find them. I do not think Capt. Robt. Bradford has treated me right at all. I'm exceedingly anxious to get to W. City. There is so many minutas I can say to you, almost impossible to be told by letter, will aid you considerably.

I do not see how I can bring witness' on there, when I can procure them on there, in *there* own land; & every one of the Federal officers have promised to meet me in Washington & testify in my behalf any time I would go on there. Col. Oldershaw, of Chicago, is another witness, & offered, time & again, if I would come on, to meet me in Washington & lend his aid. I can also get Col. Porter's assistence, of N. Y., who occupied quite a prominent position in the South during our troubles.
487 I can come fortified with the most powerful evidence from the South. The testimony of the negroes was all taken in legal form. The letters were signed by the secretary of state, with the seal upon them. I'm going to N. Orleans on Thursday night, 31st, & will see James L. Bradford, partner of the one in W——, & will find out all I can for you in regard to the papers. I feel confident it will not take but a short time for you to get all the papers you require ready.

Let me hear from you as soon as possible, & specially in regard to witness'. I can find more in the North than I can now find in the South, & Washington City they can be better found than now in the South. You can certainly depend upon me to give you all the aid you require. With many thanks for your kindness, I feel truly grateful to you for accepting the terms, & I hope the time will soon come in person I can prove by acts, not words.
488 With kind regards, respectfully,

MRS. JENNIE BEMISS.

Gen'l Emery, in N. O., is another witness. His letters are also in my papers in your city.

With thanks, respectfully,

MRS. L. J. B.

EXHIBIT WOOD NO. 3.—*Filed Apr.* 27, 1878.

PECAN GROVE PLANT., *Nov. 25th*, 1873.

Messrs. TAYLOR & WOOD:

GENTLEMEN: I have this day complied with your request & signed the papers, all in legal form, & forward them to you. Let me also state, since I last wrote you I have found Lieut. Mansey, who was on steamer Choctaw, & who acknowledges this property was taken by U. S. G. for the benefit of troops; also letter from Capt. Wright, Navy officers, & who were witnesses to my great losses for three years of the war, &
489 who can fully testify to my loyalty. I have also letters to the Vice President, to Admiral Porter, & to the Commissioners of Claims, each & all as strong as such documents can possibly be. Lieut. Munsey thinks that, could I see the officials in your city, that my claim is deserving of even more than special mention; for had they not got those supplies they would have been obliged to have fallen back from Port Hudson to Baton Rouge, which would have been equivalent to a defeat. These officers can testify, as they do, although so great a suffer' from their hands, yet in there illness I, done all in my power to relieve & administer to them comfort.

Telegraph me what you may require. I expect to leave for N. Y. Saturday, 6th. If you send me a dispatch, send it to Capt. Samuel Ayles, for Mrs. Jennie Bemiss, care D. J. Dunn, 76 Camp st., New Or-
490 leans, La. By following these directions it will reach me at once. On my arrival in your city I can give you, I'm confident, satisfactory reasons for coming on & seeing you in person; & the letters will be of assistance, I feel confident, to you.

Pardon me for again trespassing upon your time such a lengthy epistle.

With kindest regards, I remain, gentlemen, very truly & respectfully,

MRS. LAURA J. BEMISS.

EXHIBIT WOOD NO. 4.—*Filed Apr.* 27, 1878.

BOX 62, INGERSOLL *Cent.*, *Nov. 3rd*, 1875.

Mr. G. TAYLOR, *Washington, D. C.:*

DEAR SIR: Yours of Nov. 1st has just been received & perused carefully. I think it best to do as you advise, & on no account let claim stand over. In regard to evidence of officers, if I could get track of cer-
491 tain officers, such as C. H. Hill, A. A. Paymaster, E. A. Whitehouse, U. S. A., & officers who were with Col. Criselier's command, Col. Gurney, N. Y. Cavalry, I feel confident I could get certificates; not knowing where they are, I scarcely know what to say. I feel confident Gen'l Emery would give me certificates, for he ever expressed himself to Judge Fente & Col. Bradford, of N. O.—Oh, how I wish I could see the officers; I know they would do all in their power for me; when they were strangers in a strange land I done all I could for them. I would like, kind friend, to confer with my brother-in-law, C. T. B., which I shall do at once, & get him to also advise with you whether best to accept what you can get now or try for further evidence, or what pro'pects there will be of getting it or the certificates. I shall advise him to correspond with you at once. Kind friend, it seems so hard to be cut down in a claim so just & honor-

492 able, but think God will be merciful in dealing with Congress than the C. If you think you can carry it through the House, we will have to work a little harder for the Senate. Senator James promised me in N. Y. to do all he could for me; and now will be the time for him to prove his kind feelings for one of God's unfortunate creatures. I agree again with you & Col. Wood that it is best to get all we can now, & then make the contest before Congress. With thanks for your kind feelings, &c., remember me kindly to Col. W.; & I'm truly glad to learn of his improved he'lth. God grant you both may be spared many years, to enjoy the fruits of your noble efforts, & specially that on the *belief* of the widows & orphans.

Believe me, ever, yours sincerely,

MRS. J. L. BEMISS.

Tell Col. Wood to write to me.

493 EXHIBIT WOOD NO. 5.

The undersigned hereby agrees to employ Messrs. Taylor & Wood, of Washington, D. C., as her attorneys for the prosecution of her claim against the United States, now pending before the Southern Claims Commission, No. 7316, on behalf of herself and minor heirs of John Bemiss, dec'd, and in consideration of the service of said Taylor & Wood in prosecuting said claim against the Gover'ment, she hereby agrees to give them fifty per centum of whatever sum or sums of money may be recovered from the U. S. Gover'ment on account of said claim.

Plaquemine, Iberville Parish, La., November 25th, 1873.

LAURA J. BEMISS.

494 EXHIBIT WOOD NO. 6.—*Filed Apr'* 27, 1878.

JUNE 8TH.

Mr: GEORGE TAYLOR:

ESTEEMED FRIEND: Having written to you two weeks ago, & not receiving any answer, I presume as the mails have been very irregular, it perhaps never reached you, or I would have met some response; I received a letter yesterday from my youngest sister, giving me details of my dear Mr. Mather's sudden death, & in it she tells me she will remain at home with married sister until next winter, & after the crop is taken off, which is a very fine one, the property will be divided. It would be suicidal to do anything now. Will you not let me have $100 dollars? If you will not or cannot do anything more, that will be of some very great assistance in my present condition. Kind friend, please let me have this much, & I will not trouble you again, & let me know, as I
495 presume my claim is closed before the commissioners, any & all information you can give me. With grateful thanks for past kindness, & prayers for your success in life, I remain, your appreciate friend.

MRS. JENNIE BEMISS.

Please answer me & let me know, & for God' sake help me this once, & I give my honor I will not trouble you again.

EXHIBIT BENJAMIN No. 1.—*Filed Apr'* 27, 1878.

496 OFFICE OF THE COMMISSIONERS OF CLAIMS.

Washington, Oct. 23, 1876.

DEAR SIR: In the matter of the claim of Laura J. Bemiss et al., of Louisiana, No. 7316, recently allowed by the commissioners and by Congress, I very cheerfully comply with your request to state in writing what I know of the manner in which the claim was presented by you before this commission, and as the question of diligence seems to be the one chiefly concerned, I will take occasion to say generally that few attorneys are so attentive as yourself to the progress of a case while it is pending, and more anxious to see that every material point is fully covered before the actual decision is made.

I cannot at this late day, and without the papers before me to refresh my memory, undertake to state all that have known, from time to time, of what you have done in the Bemiss case, but I do know
497 that you have talked with me and made more inquiries and requests about it than about any case pending before this commission, unless it be the cases perhaps of Mrs. Daipre and Mrs. Chotard.

I remember that you made several visits here to bring about an examination of Col. Holibird, whom you regarded as an important witness for the claimant; then you were very attentive in getting the case investigated, which you apparently knew was necessary towards getting a decision; then you expressed anxiety that Commissioner Aldis, with whom you had talked about the case, was inclined to be in dealing with the list of items, and seemed disposed to cut down the allowance for mules, and ignore altogether an item of sugar, and I know that at your request I myself examined the papers with reference to the price that ought to be al-
498 lowed for mules, and brought the question of allowing for the sugar before Commissioner Ferris, and heard you yourself talk repeatedly to him, as well as to Com'r Aldis about the case; and altogether, from both your personal and official conversations with myself, I thought you were taking a very warm interest indeed in the case. To be brief, and avoid tedious detail, I will say, leaving out of consideration any discussion of the controversy that seems to have arisen between yourself and the claimant, that in the way of securing the earliest possible action, and setting the largest possible allowance for the claimant on each item, and in the aggregate, you did all that could properly be done by anybody, and were, in my opinion, successful to a remarkable degree.

Very respect' yours,

CHAS. F. BENJAMIN, *Clerk.*

GEORGE TAYLOR, Esq.,
Attorney, &c.

499 *Deposition of John Rawle.—Filed Mar.* 11*th*, 1878.

BEMISS ET AL.
vs.
TAYLOR ET AL. } In equity.

Interrogatories to be propounded to John Rawle, of Natchez, Miss.

Int. 1. What is your residence and occupation?

Int. 2. Are you personally acquainted with Mrs. Laura J. Bemiss, formerly of Pt. Coupe, La., and now of Canada?

Int. 3. Have you ever had any communication with said Mrs. Bemiss in regard to the prosecution of a certain claim of herself and children before the Southern Claims Commission for stores and supplies taken by the U. S. Army—and particularly in regard to the employment of George Taylor, of Washington, D. C., as her attorney for the prosecution of said claim, and as to the terms of his employment? If so, was said com-
500 munication oral or written, and, if the latter, have you the first and other letters (if more than one) you received from her on that subject? And, if so, please file them as exhibits and part of your answer.

Please state if you replied to such letter or letters, and if you have a copy of your letter or letters in reply file the same, if not the' state the substance of your reply to the same.

Int. 4. Mrs. Bemiss, in giving her testimony in this case, in reply to the following interrogatory:

"When did you first have communication with the defendant Geo. Taylor in relation to this suit, and upon whose recommendation did you have such communication with him"? says: "I think about the year 1875 I was advised by Judge Rawle, of Natchez, Miss. (who, I believe, got a claim thro' Mr. Taylor) to write to him (Taylor), and that he would ad-
501 vance the necessary funds to take the witness' on to Washington, D. C., and defray all expenses, but that he would want one-half for so doing, and that he was the best man to employ to manage the case, and that he would recover the full amount, and recommended me to employ him, arguing with me that it was better to get half than wait."

Please state whether her answer as above is true, the whole or any part thereof; whether you advised her that Mr. Taylor would advance the necessary funds to take witnesses to Wash'n and defray all expenses, but that he would want one-half for so doing, and whether you ever advised her that he, Mr. Taylor, would recover the full amount, and agreed with her that it was better to get one-half than wait.

Int. 5. Upon cross-examination Mrs. Bemiss, in reply to the question whether she did not apply to the party recommending Mr. Taylor
502 for a letter of introduction, says: "The recommendation was volunteered. * * * He (Major Rawle) told me what Taylor would demand for his services.

Please state whether you "volunteered, &c.," as she testified in that answer.

WALTER S. COX,
Sol'r for Def't.

503 In the supreme court of the District of Columbia, the 19th day of January, 1878.

BEMISS ET AL.
v.
GEORGE TAYLOR ET AL. } No. 5316. Equity docket 16.

I, Joseph D. Shields, duly appointed special commissioner by the supreme court of the District of Columbia, as by the commission hereto annexed & made part hereof will appear, & in virtue thereof being invested with power & authority to examine John Rawle as a witness for the defendants in the above-entitled cause upon the interrogatories an-

nexed to said commission, at a certain day & place to be appointed by me, I, the said Joseph D. Shields, did cause the said John Rawle, witness, to come before me at my office in the city of Natchez, county of Adams & State of Mississippi, on the sixth day of March, in the
504 year of our Lord eighteen hundred & seventy-eight, and did then and there administer to him an oath upon the Holy Evangelell to tell the truth, the whole truth, & nothing but the truth in answer to the hereto annexed interrogatories in said cause:

And the said JOHN RAWLE in answer to the said interrogatories, did testify as follows, to wit:

To the interrogatory first he says: I am a resident of the city of Natchez, State of Mississippi, but I claim in the State of Louisiana. I am a planter, insurance agent & real estate agent & commerciol agent.

To interrogatory second he says: I am not personally acquainted with Mrs. Laura J. Bemiss, of Pt. Coupe, now of Canada.

To interrogatory third he says: I have had communications with Mrs. Bemiss in regard to the prosecution certain claims of herself &
505 children before the Southern Claims Commission for stores & supplies taken by the U. S. Army.

JOHN RAWLE.

J. D. SHIELD,
Special Com'r.

In regard to the employment of George Taylor as attorney for Mrs. Bemiss, witness says: In September, A. D. 1873, one Samuel Ayles, clerk of a steamboat, applied to me for a letter of introduction to my lawyer at Washington, for a Mrs. Bemiss, of Point Coupe, Louisiana, who had a claim before the Government, and who was not satisfied with her lawyer. I (witness) recommended Mr. George Taylor to Mr. Ayles, as being a successful advocate before the Court of Claims.

Subsequently to this oral communication to Mr. Ayles, I (witness) received the letter from Mrs. Bemiss marked "A" which I forwarded to Mr. Taylor as per letter (B) hereto attached and made part of my answer.

506 On the eleventh of October, I received another letter from Mrs. Bemiss, which I annex as part of my answer marked "C," to which I replied on the 15th, a fac-simile of which answer, as taken from her letter-press copy-book, I hereto append marked "D."

JOHN RAWLE.

4. To which letter (D) Mrs. Bemiss replied on the 21st as per answer marked "E," annexed hereto, will appear, also a letter from Mrs. Bemiss; of date 27' October, which letter is marked "F," hereto attached. I know nothing of the terms of the employment by Mrs. Bemiss, of Geo. Taylor. The above letters explain, to the best of my recollection, all of my connection with the business. I may have written other letters to Mrs. Bemiss, but the fac-simile copy (D), herewith filed, is the only one I have preserved. My impression is that the letter, D, is the only one I wrote to her on the subject of the employment of Geo. Taylor.

507 To the interrogatory fourth he says: I never saw Mrs. Bemiss & never had any conversation with her. The only agency I had in the matter was as I have stated in the conversation with Samuel Ayles. I never did advise Mrs. Bemiss that Mr. Taylor would advance the necessary funds to take witnesses to Washington and defray all expenses, nor did I advise her that he (Taylor) would want one-half for so doing. I stated to Sam. Ayles that Geo. Taylor charged me, in the suit which I had employed him, fifty per cent. I never advised Mrs. Bemiss that he (Taylor) would recover the full amount, nor did I ever argue with her it would be better for her to get one-half than wait.

Fifth. To the interrogatory he says: I did not volunteer the recommendation of Mr. Geo. Taylor to Mrs. Bemiss; I did not tell Mrs. Bemiss what Mr. Taylor would demand for his services.

JOHN RAWLE.

508 And I, Joseph D. Shields, do further certify that the above answers to the above and hereto annexed interrogatories, being the testimony in the case, were reduced to writing by me in the presence of the said witness, John Rawle, and were carefully read over by him, & that he signed the same, each page thereof, in my presence, after having been duly sworn as aforesaid.

And having so done I do hereby annex said testimony, together with the Exhibits A, B, C, D, E, & F to the writ of commission, and do close up the same under my hand & seal, and I make return of the same into the supreme court of the District of Columbia by sealing up the same and writing my name across the seal, & directing the same to the post-office address of R. J. Meigs or M. A. Clancy, clerk of said court, at Washington, District of Columbia, & depositing the same in the post-office, at Natchez, Mississippi, on this 6th day of March, A. D. 1878.

In testimony whereof I, the said Joseph D. Shields, have hereunto as special commissioner set my hand & private seal, not having any official seal, this 6th day of March, A. D. 1878.

JOSEPH D. SHIELDS, [SEAL.]
Special Commissioner.

509 EXHIBIT C.

PECAN GROVE PLANT.
(*Near Plaquemine, Iberville Parish*), *Oct. 11th*, '73.

To Mr. JOHN RAWLE:

DEAR SIR: Permit me to return many & sincere thanks for your kindness. I assure you it has fallen upon grateful soil. I wrote to Mr. Taylor myself this morning & enclosed him some papers that might also prove of use to him. I feel confident with the evidence I have that if the lawyer will be energetic *thus* his efforts will be crowned with success. I am now expecting, daily, letters from A. C. that will enable me to
510 determine when I can take my departure from La. Finding everything so very expensive, with my limited means, with 3 bright little children to educate, I have investigated every place, & find for little I can get the most, in every way, & 'specially educational advantages, in Canada. Toronto I expect to make my future home. After I place

my children at school it will then leave me free, & I hope to make my way at once to Washington City, & to remain there & do all I can for my claim. With the evidence I have I cannot see how it would be possible for the U. S. G. to refuse to pay for supplies which they admit was of such immense benefit to them. I have given Mr. Taylor the power to do all he can for me until I can get on there, & I will make every effort not to lose any time in going to Washington. I sincerely hope the day will come when I will have the pleasure of seeing you in person, & be able to return my thanks verbally; & if successful I hope we will meet,
511 & I can then in a more substantial manner one of La.'s old fashioned, good old days' dinner parties. However, if you come on to A. S., you must not fail to let me know. As soon as I am located I will let you know the results of my efforts. Again, with kindest regards, I remain, allow me *me* to sign myself, your friend,

MRS. JENNIE BEMISS.

(Exhibit D. Illegible; written on tissue paper.)

R. J. MEIGS, *Clk. &*
By R. J. MEIGS, JR., *Ass't.*

EXHIBIT E.

PECAN GROVE, *Oct.* 21*st*, 1873.

To Major JOHN RAWLE:

KIND FRIEND: Permit me to address you as such, in my short experience with this cold and callous world, when so few are even charitable to one left alone to battle for rights. There are no words expressive enough to convey to you how sincerely grateful I am. Your kind letters are to me like an unexpected oasis in the midst of the interminable desert,
512 like a solitary star of the first magnitude beaming suddenly out from a cloudy sky. How sincerely I regret that fate had not granted me your kind friendship long ere this, & perhaps it would have saved me many hours of bitter tears & deep anguish. Those, Major Rawle, that could have helped me would not, because they do not want to see me or mine independent, & dependence, to a proud & sensitive woman like myself, is worse than gall & wormwood.

I have tryed, in battling with an uncharitable world, to steel myself with an icy coldness, having been left a widow in my twenty-second year. I had youth as a misfortune, & only by the greatest exertions I have been able to overcome impediments & obstacles of gigantic magnitude to prosecute my claim. I doubt if any one could have more powerful evidence in their favor than I have, which is all filed in Washington City. There has not been time yet to get a reply to my letters & the papers forwarded on to Mr. Taylor, but just so soon as I do I will give you his opinion of it. Bishop Whitehouse' (of Illinois) son is a naval officer on the scien-
513 tific co'st, in the Pacific, on steamship Portsmouth, & he writes me he will get a furlough any time & go to Washington City & give his personal testimony; & I have several letters from him that must have some very strong weight. He was Lieut. Edward Whitehouse, paymaster on gunboat Choctaw, under Cornwall, which was opposite Lakeland the whole time, with the exception of a few months. You have,

perhaps, never known the feeling, major, of feeling starved and hungry for kind words—not those "lip-deep," but true sincerity. Had I been like the fearful waterfowl to whom the least cloud in the sky seems the shadow of the eagle, I should perhaps long since, when feeling too weary to live, & did long to die, & was only raised from my feelings by the dependence of three little ones upon me; & it was this which caused me to overcome indifference, which is worse even than stubbern'ess or opposition to overcome; the "open foe," Major Rawle, can always be met. It is hard to deal with that one who is more than the midnight assassin, that would say aught to injure women's fair fame, for truly it is her greatest &
514 truest wealth. Alas, many of your sex consider "fair ones fair game." Sometimes despair closes everything. What can I do here when everything is so scarce, & the times are growing daily worse? Then always foot-free, as the wind on the breath, it were vain to say to them, where goest thou? or to ask that restless driver of the clouds, wherefore bloweth thou? I have moved with so much caution; sometimes I fret over these disagreeables until it seems as if brain & heart will burst, & I hardly know where to seek counsel or sympathy. Unfortúnately there never lived but one woman who understood the "modus operandi" of making things last. That was the widow of Sarepta. You know, Major Rawle, I'm entirely dependent upon the kind bounty of my brother-in-law, C. T. Bemiss, of New Orleans. He has been father, friend, to myself & little children. But even that kindness does not lessen the pain of dependence, & when I know how just, how perfectly correct, my claim is. Of course each year my children are growing larger & their wants
515 greater, & though women may be indifferent financ'ers that does not alter the question of their rights. Earth, Major Rawle, has no medal nor tribute of honor that can heighten the beauty of your kindness, which sparkles up in the true tide of womenly feelings in this arid waste of human selfishness like a fountain in a burning desert. I desire again to thank you for your communication of Oct. 13th, & for your hopes that I may gain my rights, & believing in the promise made to the widow & orphans, as well as some hope of justice from man.

I sincerely believe Mr. Taylor will reap benefit to me as well as fully compensate himself for time & trouble.

With kindest regards, & very many thanks, I am truly & sincerely your friend,

MRS. JENNIE BEMISS.

516 EXHIBIT F.

PECAN GROVE PLANT.
(*Near Plaquemine, Iberville Parish*), *Oct.* 27, '73.

To Major JOHN RAWLE:

Believing you will rejoice with me having received a letter this morning from Mr. Taylor, of the law firm Taylor & Wood, Washington City, who has accepted the charge of my claim, & feeling I am indebted to you for Mr. Taylor's kindness, hoping this will be my apology for intruding myself so soon again upon your kind patience. He answers that it will not take him long to prepare the case if properly aided in La.; he accepts my terms & in every way to write very hopeful & encouragingly. I

wrote to Mr. Taylor to-day, giving him further advice or evidence in my behalf. I think the more he gets into the case he will feel more & more encouraged. The evidence is so strong from the "Federals themselves," I do not see how they can get out paying me if they pay any claims.

Gen'l Emery says there will not be any justice in the U. S. com-
517 missioners if they do not pay this claim in full, & that letter is filed with my papers in Washington. Lieut. E. N. Whitehouse, who was at the time of my acquaintance with him paymaster of gunboat Choctaw, now in the scientific survey, on duty in the Pacific, on steamship Portsmouth, & his father, Bishop Whitehouse, of Chicago—the former lieut., as well as the bishop's letters in my behalf, could not possibly be any stronger asserting to the justice of my claim. I have more, or as many, strong witnesses North, & every one has volunteered to meet me at any time in Washington & give their testimony there in person in my behalf. In ten or twelve days I could get all that would be necessary again in La., ere I leave for Canada, & hence for Washington. The Federal officers all in this department have offered their kind aid & friendly greeting in my behalf. I had valuable testimony taken, all in legal form, over a year ago; even had the corn-cribs measured, & the Federals had testified with the negroes they were full to overflowing, & they had emptied them.

Washington is the rende'vous for all officers. I could find more of
518 them there than in the South. Col. or Major P. P. Oldershaw; perhaps you know him; he was a great friend of the Metcalf's & others in Natchez. He has offered several times to come to Washington & testify in my behalf from Chicago. I knew when a child, before the war, a friend of Major Schlotre's, of this neighborhood, & knew him during the war also. My evidence all had the secretary of state's, the signature, & seal of State stamped upon them, so Mr. T. Thope will only have to lend his aid in pushing it through. By the way, Gov. Kellogg & Col. Carey have offered to approve my claim in a synopsis made out; do you think it would be any assistance to me? Youth, Major Rawle, has been a very great drawback to me. I was left alone in my 22d year, & I have truly drank sorrow's cups to its bitter dregs. If I made an effort to save bread for my 3 little orphans, I had envy & jealousy to contend against, until I just determined I would try & save what I could from the wreck,

& that a just & merciful God would fulfil that promise made to the
519 widow & orphans, & my own knowledge of right would sustain me in the principal struggle. I've long looked for the silvery lining in the clouds that had hung over me black so long, & think & believe now I can begin to see its dawn.

Any letters of introduction you can give me, Major Rawle, will be kindly appreciated & most gratefully received, to any friends in N. Y., as well as Washington City. Every step I have taken in regards to my claim has been done in a thoroughly legal & business-like manner. I do not think, though, the lawyers I employed have acted justly toward me, & if I now succeed in reaping reward of my labor I feel that I am truly indebted to you, & having fallen into such hands as Messrs. Taylor & Wood; I would seek to express gratitude, but feel that 'tis better for not to attempt what can be so poorly done. Friends are not found every day. More to be desired are they than gold, & yet in this world of shows & deceit it was hard for one left like myself to discern, & I being a

520 perfect stranger when I applied to you for any kind assistance in my behalf, I assure you it has not fallen upon one who does not know its value & worth, & believe me, you will never regret the friendly greetings; & I hope acts, not words, will some day be mine to prove my sincerity. With kindest regards & many good wishes, permit me to sign myself, truly grateful.

MRS. JENNIE BEMISS.

521 BEMISS ET AL.
vs.
TAYLOR ET AL.

Interrogatories for Hank, of N. Orleans, La.

Int. 1. What is your age, residence, & occupation?

Int. 2. Were you in the city of Washington, D. C., at any time during the months of Dec'b'r, 1873, or Jan'y & February, 1874?

Int. 3. Whilst there did you meet with Mrs. Laura J. Bemiss, of Point Coupée, La., and when; and did you have any communication with her on the subject of the claim of herself & children against the U. S. Gov't, then pending before the S. C. Commission, in regard to making an arrangement with some one to advance the money to bring the witnesses in said case on to Washington from Louisiana? And state the substance of the communication.

Int. 4. If she authorized you to make such an arrangement, state
522 with whom and on what terms; whether you communicated her proposition to any one, when, & to whom; whether it was accepted, and whether the witnesses were brought on to Washington under said agreement or arrangement.

Int. 5. Did Mrs. Bemiss authorize the payment by her attorneys of the consideration for said advances out of the portion of herself & children when said claims should be collected?

Int. 6. Do you know whether Mrs. Bemiss had applied to her att'y, Geo. Taylor, to make said advances? What was his response to said application, if made?

Int. 7. State how you came to meet Mrs. Bemiss or to have any communication with her on the subject of her claims, and had you at that time any business relations, as agent or otherwise, with the party with whom said arrangement was made, and what you know in regard to whether diligence was used by said party in hunting up witnesses in said case, and in
523 bringing them on promptly to Washington for examination, and what other services, if any, were rendered by said party?

(Signed) WALTER S. COX, *Sol'r.*

I consent that a commission may join to take the deposition of th' above-named witness on the above interrogations, hereby cross-examination.

ENOCH TOTTEN,
For Compl't.

8' MARCH, 1878.

524 UNITED STATES OF AMERICA,
District of Louisiana:

I, John G. Eustis, a United States commissioner in and for the district

of Louisiana aforesaid, do certify that in accordance with a commission to take the deposition of Hawk, issued from the office of the clerk of the supreme court of the District of Columbia in the suit of Bemiss et al. vs. Taylor et al., in said pending, was produced to, and personally came before me, at my office, No. 47 Carondelet street, in the city of New Orleans, in said district of Louisiana, said C. B. HAWK, (a witness in behalf of the defendants in said cause), of lawful age and sound mind, and who, being by me first carefully examined, cautioned, and duly sworn to testify the whole truth, and nothing but the truth, in answer to the interrogatories hereto annexed, accompanying said commission, did depose and say as follows:

525 1st. To the Int. he saith: I am forty-six years old; reside in New Orleans, and by occupation an agent for collecting claims against the Government.

2. To the second Int. he saith: I was in Washington City, D. C., I think, in December, 1873, or about that time.

3d. To the 3d Int. he saith: I met with Mrs. Laura J. Bemiss in Washington, D. C., at the time I mention I was in Washington in the foregoing interrogatory; I had a conversation with Mrs. Bemiss at that time on the subject of the claim of herself & children against the United States, then pending before the Southern Claims Commission, in regard to making arrangements with Hon. John Ray to advance the money to bring the witnesses in said case to Washington from Louisiana. Mrs. Bemiss, in Geo. Taylor's office, agreed to allow me for Mr. Ray ten per cent. of what might be recovered on her said claim for the expenses that he might incur in bringing on the witnesses from Louisiana to Washington,

526 D. C., to prove up said claim; this ten per cent. to be paid out of her portion and not out of the portion she had agreed to pay Mr. Taylor for conducting the case. Mr. Taylor was present and refused to contribute to this expense. She made the arrangement on her own amount and made the remark that it would cost her sixty per cent. of the claim to collect it. Mr. Wood was also present.

4th. To the 4th Int. he saith: She did authorize me to make the above proposition to Mr. Ray, and on my return to New Orleans I made the proposition to Mr. Ray; possibly I wrote to him about it from Washington; in fact I think I did; and that Mr. Ray replied accepting the proposition, and I closed it with Mrs. Bemiss before leaving Washington. At all events Mr. Ray accepted the proposition, and, in accordance to said contract, Mr. Ray collected the witnesses at New Orleans and advanced the means to take them to Washington, and they went to Washington under charge of Col. Claiborne.

527 5th. To the 5th Int. he saith: Mrs. Bemiss directed Mr. Taylor, when the claim was collected, to retain the amount of ten per cent thereof out of her portion and pay the same to Mr. Ray under said contract, and which Mr. Taylor agreed to do. This was one of the conditions on which I agreed to accept her proposition, and would not have accepted it otherwise.

6th. To *to* the 6th Int. he saith: Mrs. Bemiss did make application to Mr. Geo. Taylor, her attorney, to make this advance before spoken of, but he positively refused to do so.

7th. To the 7th Int. he saith: Capt. Sam. Abs first spoke to me about

Mrs. Bemiss, and gave me a letter to her, which I conveyed to her at Washington, recommending her to employ me. I was at that time engaged with Mr. Ray in procuring and proving up similar claims against the United States Government. I was then in Washington with wit-
528 nesses for that purpose. I know that Mr. Ray at once set about looking up the witnesses and used extraordinary diligence in doing so, and in sending on the witnesses to Washington for examination, and I know that Mr. Ray rendered every service in his power to aid Mrs. Bemiss in the case. Under Mr. Ray's instructions and at his expense I went to Pointee Coupée and looked up the witnesses and brought them to New Orleans, and they were sent into Washington under Col. Clairborne.

C. B. HANK.

Sworn to and subscribed before me this 16th day of March, A. D. 1878.

J. E. EUSTIS,
United States Commissioner, District of Louisiana.

I further certify that the foregoing deposition of C. B. Hank were then and there reduced to writing by my clerk in my presence and that of said witness, and by him, said witness, subscribed in my presence, after having been so reduced to writing.

I further certify that I am not, nor is my said clerk, of counsel
529 nor attorney to either of the parties of this suit, nor interested in the event of this cause.

I further certify that it being impracticable for me to deliver said deposition with my own hand into the court for which it was taken, I have retained the same for the purpose of being sealed up by me and speedily and safely transmitted in due course of mail to the court for which it was taken.

Given under my hand and affixed seal this 16th day of March, A. D. 1878.

J. E. EUSTIS,
United States Commissioner, District of Louisiana.

Comm'r's charges, $7.50; postage, 25—$7.75. Paid by def'ts.
J. E. EUSTIS, *U. S. Com'r.*

530 BEMISS ET AL. }
vs. } Equity. 5316.
TAYLOR ET AL. }

Interrogatories propounded to Thaddeus Waterman, of New Orleans, La.

Int. 1. What is your residence and occupation?

Int. 2. Were you ever employed in any way as attorney by Mrs. Laura J. Bemiss, of Pt. Coupe, La., now of Canada, in the prosecution of the claims of herself and children against the United States before the Southern Claims Commission?

Int. 3. If so, state when and on what terms you were so employed; and if the contract was in writing produce it and file it as part of your answer.

Int. 4. What was the particular object of your employment in this case, and what the duties you were to perform, and were these duties performed by you?

531 Int. 5. Have you received the compensation stipulated to be paid you in consideration of said services? And, if so, when and by whom, and what amount were you paid, and who, if any one, was your agent for the collection of the same?

WALKER S. ORD,
Sol. for Def't.

532 In the supreme court of the District of Columbia.

BEMISS ET AL. *vs.* TAYLOR ET AL. } Equity. No. 5316.

Cross-interrogatories to be propounded to Thaddeus Waterman, of New Orleans, La.

1. Did you have any acquaintance with John Bemiss, the father of the complainants in this case, during his life-time? If yes, state what his occupation was.

2. If, in answer to the second interrogatory, you were employed by Mrs. Bemiss, please state whether prior to that time you had any business relations or engagements of any kind with George Taylor or the*r* firm of Taylor & Wood, in the city of Washington; if you had business relations with them or with George Taylor, please state what was the nature thereof and how long such relations had subsisted. State, furthermore, whether you were engaged in getting up claims for prosecution against the

533 United States in conjunction with the said George Taylor or the said Taylor and Wood, and whether you ever made any solicitations to Mrs. Bemiss to employ the said Taylor through you.

(Signed) ENOCH TOTTEN,
Att'y for Comp'l't.

534 In the supreme court of the District of Columbia.

BELLE BEMISS ET AL., PLAINTIFF', *vs.* GEORGE TAYLOR ET AL., DEFENDANTS. } No. 5316. Equity docket 16.

UNITED STATES OF AMERICA,
State of Louisiana, City of New Orleans:

I certify that on the eighth day of March, A. D. 1878, before me, John G. Eustis, specially appointed a commissioner in the cause styled above to take the deposition of Thaddeus Waterman, a witness for the defendants in said-entitled cause, was produced to and personally came before me at my office, No. 47 Carondelet street, in said city of New Orleans, said THADDEUS WATERMAN, of lawful age and sound mind, and who being by me first carefully examined, cautioned, and duly sworn:

535 1st. To the 1st Int. he saith: I reside in New Orleans; am a broker and claim-agent.

2d. To the 2d Int. he saith: I was employed by her, as her attorney in fact, to prosecute the claim mentioned.

3d. To the 3d Int. he saith: I was employed by her on or about the 5th September, 1874, and was to be paid ten per cent. of the amount recovered in said claim. The contract was in writing, and I annex a duplicate of the contract.

4th. To the 4th Int. he saith: The particular object of my employment was to guard the interest of Mrs. Bemiss in this State, and be present at investigations of her claim by the Government. I did perform my duties.

5. To the 5th Int. he saith: I have been paid; I received my
536 money, amounting to ten per cent. (10 %) on the amount of award, in December, 1876. E. Jno. Ellis was my attorney in Washington, D. C., and he collected the money for me, but I don't know from whom. I don't remember the amount, but it was 10 per cent. of award.

Cross-interrogatories.

1st. To the 1st Cross Int. he saith: No.

2d. To the 2d Cross Int. he saith: I had no business relations or connections with him or them, and never was engaged with him or them in any manner prior to Mrs. Bemiss' claim. I never made any solicitations to her to employ said Taylor.

THAD. WATERMAN.

Sworn to and subscribed before me this 8th day of March, A. D. 1878.

J. E. EUSTIS, *Commissioner.*

I further certify that the foregoing deposition was reduced to
537 writing by my clerk in my presence and that of said witness, and was thereupon subscribed by said witness in my presence, after having been so reduced to writing.

I further certify that said deposition is taken pursuant to the annexed commission.

I further certify that I am not, nor is my said clerk, of counsel nor attorney to either of the parties to this suit, nor interested in the event of this cause.

I further certify that it being impracticable for me to deliver said deposition with my own hand into the court for which it was taken, I have retained the same for the purpose of being sealed up by me, and speedily and safely transmitted by the United States mail to the court for which it was taken.

Given under my hand and affixed seal this 8th day of March, A. D. 1878.

J. E. EUSTIS, *Commissioner.*

Comm's costs, $5.00. Paid by def't.

J. E. EUSTIS.

538 Whereas I have a claim against the United States for sugar, molasses, mules, &c., &c., amounting to the sum of (129,000) one hundred & twenty-nine thousand dollars, more or less, and have employed Thaddeus Waterman, of New Orleans, to prosecute the same before the Claims Commission, or in the Departments, or before the proper courts or

other tribunals of the United States, now, therefore, in consideration of the services of the said Thaddeus Waterman, I do hereby promise and agree to him or his assign a sum equal to ten per centum of the amount which may be allowed or recovered on said claim, the payment of which is hereby made a lien upon the said claim and upon any draft, money, or other evidence of indebtedness which may be paid or issued thereon, and if the said Thaddeus Waterman fails to recover said claim and to obtain payment thereof, then I agree to pay him no fee for services in the prosecution thereof; and I further agree, when called upon, to furnish the funds to pay all expenses of printing, costs of courts, and taking the necessary testimony to establish the said claim, and to execute from time to
539, 540 time to my said attorney such powers of attorney as may be necessary to enable him to successfully prosecute and collect said claim.

In witness whereof I have hereunto set my hand and seal this (5th) fifth day of September, A. D. 1874.

Ingersoll.

LAURA J. BEMISS. [L. S.]

541 *Decree.—Appeal by def'ts.*

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL. v. GEORGE TAYLOR ET AL. } Equity. No. 5316.

This cause having come on to be heard on the pleadings and proofs, and counsel having been fully heard, it is, this 20th day of July, A. D. 1878, ordered, adjudged, and decreed that the complainants have and recover of and from the defendants, George Taylor and Frank C. Wood, comprising the firm of Taylor & Wood, the sum of five thousand one hundred and twenty-one dollars and thirteen cents ($5,121.13), with interest thereon from the 24th day of October, 1876, together with the costs of this suit, and that execution thereof issue as at law.

It is further ordered, adjudged, and decreed that the cross-bill of the defendant Laura J. Bemiss be, and the same hereby is, dismissed. From this decree the defendants, George Taylor and Frank C. Wood, and the defendant Laura J. Bemiss appeal to the general term.

By the court:

MACARTHUR, *Justice.*

542 *Appeal to gen'l term by compl't.*

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL. vs. GEORGE TAYLOR ET AL. } Equity. No. 5316.

And now comes the said complainants, by H. H. Dudley, their next

friend, and appeal to the general term from the decree of the court made in this cause on the 20th day of July, 1878.

ENOCH TOTTEN,
Sol'r for Plaintiff.

543 *Appeal bond.*

In the supreme court of the District of Columbia.

BEMISS *vs.* TAYLOR. } Equity. No. 5316. Docket No.

The defendants, having appealed to the general term from the decree pronounced against him by the equity court in the special term, on the 20th day of July, 1878, and Charles F. Peck, his surety, for themselves and each of them, their and each of their heirs, executors, and administrators, appearing and submitting to the jurisdiction of the said general term, hereby undertake to abide by, perform, and pay its decrees, which they agree may be pronounced against each and all of them.

GEO. TAYLOR. [SEAL.]
C. F. PECK. [SEAL.]

Witness—
L. CLEPHANE.

This undertaking is satisfactory to me.

E. TOTTEN.

544 In the supreme court of the District of Columbia, the day of July, 1878.

BELLE BEMISS ET AL., COMPLAINANTS, *v.* GEORGE TAYLOR ET AL., DEFENDANT'. } No. 5316. Eq.

The def't Laura J. Bemiss, having appealed to the general term from the decree pronounced herein on the 20th of July, 1878, in the equity court, and M. Young, surety for said appeal, for themselves and each of them, their and each of their heirs and personal representatives, appearing and submitting to the jurisdiction of the said general term, hereby undertake to abide by, perform, and pay its judgment for costs, which they agree may be pronounced against all of them for costs.

LAURA J. WILLIS, *Appellant.*
M. YOUNG, *Surety.*

Approved—

HUMPHREYS, *Justice.*

(Indorsed:) No. 5316. Equity. Bemiss et al. vs. Taylor et al. Undertaking for appeal by def't Laura J. Bemiss to gen'l term.

545 In the supreme court of the District of Columbia, the day of July, 1878.

BELLE BEMISS ET AL., COMPLAINANTS,
v.
GEO. TAYLOR ET AL., DEFENDANTS. } No. 5316. Eq.

The complainants having appealed to the general term from the decree pronounced herein on the 20th of July, 1878, in the equity court, and M. Young, surety for said appeal, for themselves and each of them, their and each of their heirs and personal representatives, appearing and submitting to the jurisdiction of the said general term, hereby undertake to abide by, perform, and pay its judgment for costs, which they agree may be pronounced against all of them for costs.

H. H. DUDLEY, *Appellant.*
M. YOUNG, *Surety.*

Approved—

HUMPHREYS, *Justice.*

(Indorsed:) No. 5316. Equity. Bemiss et al. vs. Taylor et al. Undertaking for appeal by complainants to gen'l term.

546 *Motion to substitute Wm. B. Webb.*

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL.
vs.
GEO. TAYLOR ET AL.

And now comes the said complainant and moves the said court to substitute William B. Webb in lieu of H. H. Dudley, deceased, as their next friend.

ENOCH TOTTEN,
Sol'r for Complainants.

547 *Decree of general term.*

In the supreme court of the District of Columbia in general term.

BELLE BEMISS ET AL.
vs.
GEORGE TAYLOR ET AL. } Equity. No. 5316.

This cause, having come on to be heard on the appeals from the decree made at special term, and having been fully argued by counsel and considered by the court, it is, this fourteenth day of October, 1879, ordered, adjudged, and decreed that the decree of the special term be, and the same hereby is, modified as follows, to wit: That the said Laura J. Bemiss and the said complainants have and recover of and from the defendants, George Taylor and Frank C. Wood, comprising the firm of Taylor and Wood, five thousand four hundred and sixty-one dollars and seventeen cents

($5,461.17), with interest from the 24th day of October, 1876, together with the costs of this suit, and that execution thereof issue as at law.

It is further ordered, adjudged, and decreed that the said sum of
548 $5,461.17 be divided between the said Laura J. Bemiss, Belle Bemiss, Elizabeth Bemiss, and Mattie Bemiss, share and share alike. And from this decree the defendants Taylor & Wood, by their solicitor, Mr. Wilson, here now, in open court, pray an appeal to the Supreme Court of the United States, and the same is allowed. And the court fixes the penalty of the appeal bond at ten thousand dollars, the same to operate as a supersedeas.

By order of the court:

D. K. CARTTER,
Ch'f Justice.

549 In the supreme court of the District of Columbia, the day of , 18 .

ELIZABETH, BELLE, AND MATTIE BEMISS, BY their next friend, William B. Webb,
vs.
GEORGE TAYLOR AND FRANK C. WOOD AND Laura J. Bemiss.
} In equity. No. 5316.

Know all men by these presents that we, George Taylor and Charles F. Peck, are bound unto the above-named William B. Webb, the next friend of Elizabeth, Belle, and Mattie Bemiss, in the sum of ten thousand dollars, to be paid to the said William B. Webb, the next friend of the said Elizabeth, Belle, and Mattie Bemiss, his executors or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our, and each of our, heirs, executors, and administrators firmly by these presents. Sealed with our seals, and dated this 22' day of October, 1879.

Whereas the above-named George Taylor and Frank C. Wood have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is, that if the above-named George Taylor and Frank C. Wood shall prosecute their said appeal to effect, and answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

GEO. TAYLOR. [SEAL.]
CHARLES F. PECK. [SEAL.]

Sealed and delivered in presence of—
NATH'L WILSON.

Approved: To operate as a supersedeas, Oct. 22, 1879.
(Signed) D. K. CARTTER,
Ch'f Justice.

550 *Appeal to Supreme C't.*

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL.
v.
GEORGE TAYLOR ET AL. } Equity. No. 5316.

And now comes the said complainants and appeal to the Supreme Court of the United States from the decree entered in this cause on the 14' day of October, 1879.

ENOCH TOTTEN,
For Complainant.

551 *Appeal to Supreme Court U. S.*

In the supreme court of the District of Columbia.

BELLE BEMISS ET AL.
vs.
GEORGE TAYLOR ET AL. } Equity. No. 5316.

And now comes the said defendant, Laura J. Bemiss (otherwise Willis), and appeals to the Supreme Court of the United States from the decree entered in this cause on the 14' day of October, 1879.

552 In the supreme court of the District of Columbia the 30' day of October, 1879.

BELLE BEMISS ET AL., BY WILLIAM B. WEBB, next friend,
vs.
GEORGE TAYLOR AND FRANK C. WOOD. } At law. No. . In error.

Know all men by these presents, that we, William B. Webb and Frank T. Browning, are bound unto the above-named George Taylor and Frank C. Wood in the sum of two hundred and fifty dollars, to be paid to the said Taylor & Wood, their executors or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our, and each of our, heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this 30' day of October, 1879.

Whereas the above-named Belle Bemiss, Mattie Bemiss, and Elizabeth Bemiss, by their next friend, Wm. B. Webb, have prosecuted an appeal to the Supreme Court of the United States to reverse and modify the decree rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is, that if the above-named Belle Bemiss et al. & Wm. B. Webb shall prosecute their said appeal to effect, and answer all costs if he shall fail to make good his plea

then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

W. B. WEBB. [SEAL.]
FRANK T. BROWNING. [SEAL.]

Sealed and delivered in the presence of—

Approved, Oct. 31, 1879.

D. K. CARTTER,
Chief Just.

553 In the supreme court of the District of Columbia, the 30' day of October, 1879.

BELLE BEMISS ET AL., BY WILLIAM B. WEBB, next friend, *vs.* GEORGE TAYLOR, FRANK C. WOOD, & LAURA J. Bemiss (otherwise Willis). } At law. No. . In error.

Know all men by these presents, that we, Laura J. Willis and Frank T. Browning and George Willis, are bound unto the above-named William B. Webb, next friend, &c., in the sum of two hundred and fifty dollars, to be paid to the said Wm. B. Webb, next friend, etc., his executors or administrators, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our, and each of our, heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this 30' day of October, 1879.

Whereas the above-named Laura J. Bemiss ha' prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is, that if the above-named Laura J. Bemiss shall prosecute her said appeal to effect, and answer all costs if she fail to make good her plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

LAURA J. WILLIS.
GEORGE WILLIS.
FRANCIS T. BROWNING.

Sealed and delivered in presence of—

Approved, Oct. 31, 1879.

D. K. CARTTER,
Chief Just.

554 *Authentication of record.—Clerk's certificate.*

Clerk's office, supreme court of the District of Columbia.

I, R. J. Meigs, clerk of the said court, do hereby certify that the writings annexed to this certificate are true copies of originals on file and of record in said office, and that said originals, together, constitute the record of the proceedings of said court in this cause.

Witness my hand and the seal of said court this 15' day of October, 1880.

[SEAL.]

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR.,
Assistant Clerk.

Justice's certificate.

I, David K. Cartter, chief justice of said court, do certify the foregoing attestation by R. J. Meigs, clerk of the said court, to be in due form.

Witness my hand and seal this 15' day of Oct., 1880.

D. K. CARTTER, [SEAL.]
Chief Justice.

Clerk's certificate to justice's official character.

I, R. J. Meigs, clerk of said court, hereby certify that David K. Cartter, whose genuine signature is subscribed to the foregoing certificate, was, at the time of signing and attesting the same, chief justice of said court, duly commissioned and qualified.

Witness my hand and seal of said court this 15th day of Oct., 1880.

[SEAL.]

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR.,
Assistant Clerk.

(Indorsement on cover :) No. 164. George Taylor and Frank C. Wood, appellants, vs. Elizabeth Bemiss, Belle Bemiss, & Mattie Bemiss, by their next friend Wm. B. Webb. No. 165. Elizabeth Bemiss, Belle Bemiss, & Mattie Bemiss, by their next friend, Wm. B. Webb, appellants, vs. George Taylor & Frank C. Wood. No. 166. Laura J. Bemiss (otherwise Willis), appellant, vs. Elizabeth Bemiss, Belle Bemiss, & Mattie Bemiss, by their next friend Wm. B. Webb. Dist. of Columbia sup. court. Filed 20th October, 1880.

110-42

Supreme Court of the United States.

No. 164.

GEORGE TAYLOR and FRANK C. WOOD, Appellants,

vs.

ELIZABETH BEMIS, BELLE BEMIS, and MATTIE BEMIS, by their next friend, WILLIAM B. WEBB.

No. 165.

ELIZABETH BEMIS, BELLE BEMIS, and MATTIE BEMIS, by their next friend, WILLIAM B. WEBB,

vs.

GEORGE TAYLOR and FRANK C. WOOD.

No. 166.

LAURA J. BEMIS, (otherwise "WILLIS,") Appellant,

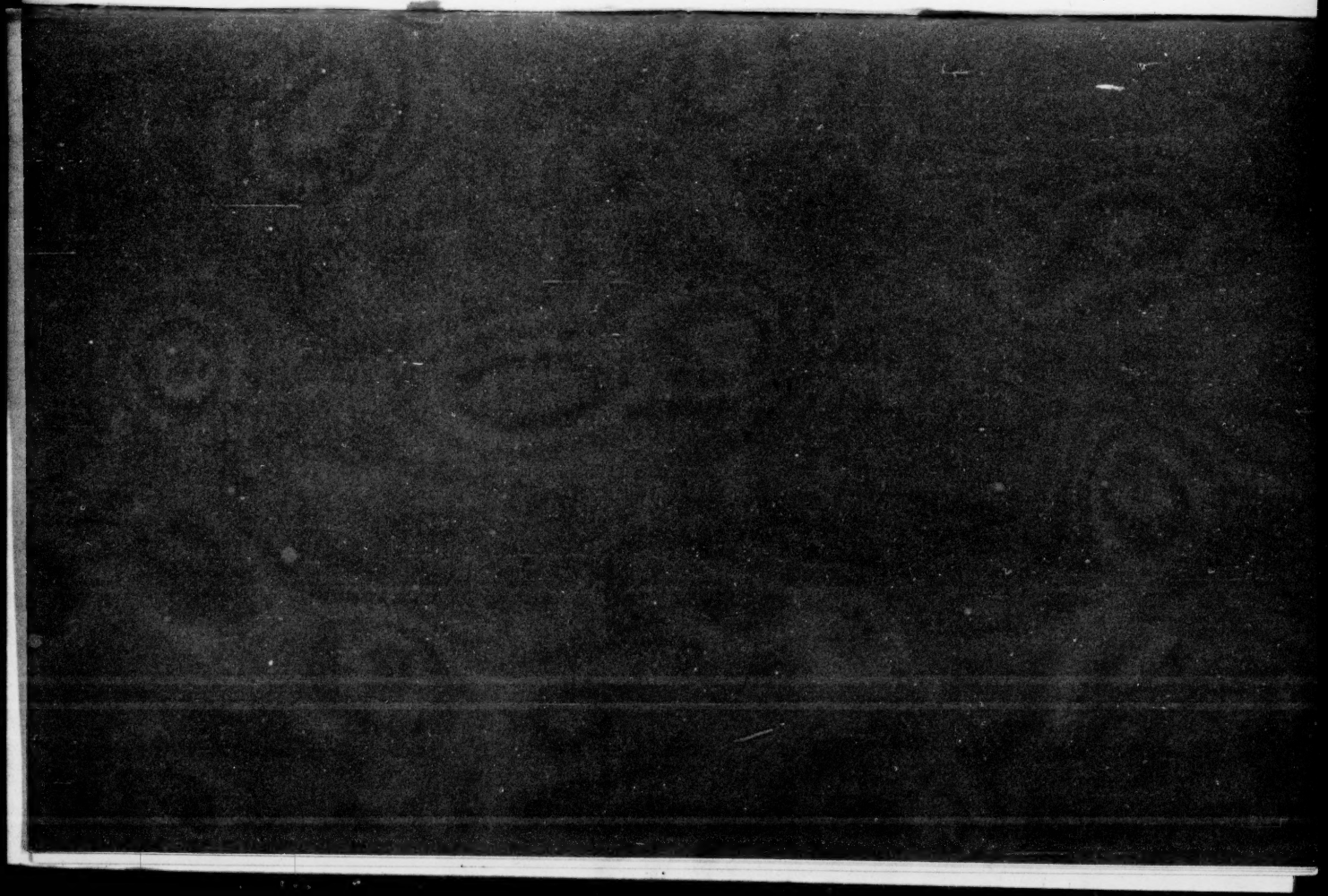
vs.

ELIZABETH BEMIS, BELLE BEMIS, and MATTIE BEMIS, by their next friend, WILLIAM B. WEBB.

BRIEF FOR APPELLANTS TAYLOR & WOOD,

By NAT'L WILSON,
Of Counsel.

THOMAS McGILL & CO., PRINTERS, WASHINGTON, D.C.



Supreme Court of the United States.

No. 164.

GEORGE TAYLOR & FRANK C. WOOD, APPELLANTS,

vs.

ELIZABETH BEMIS, BELLE BEMIS, AND MATTIE BEMIS, BY THEIR NEXT FRIEND, WILLIAM B. WEBB.

No. 165.

ELIZABETH BEMIS, BELLE BEMIS, AND MATTIE BEMIS, BY THEIR NEXT FRIEND, WILLIAM B. WEBB,

vs.

GEORGE TAYLOR AND FRANK C. WOOD.

No. 166.

LAURA J. BEMIS, (OTHERWISE "WILLIS,") APPELLANTS,

vs.

ELIZABETH BEMIS, BELLE BEMIS, AND MATTIE BEMIS, BY THEIR NEXT FRIEND, WILLIAM B. WEBB.

STATEMENT OF THE CASE.

Mrs. Laura J. Bemis, in her own right as widow and as tutrix to her children, had a claim against the United States for horses, mules, cattle, &c., pending before the Southern Claims Commission in October, 1873. The attorney having charge of it, or who had filed the memorial,

had left the city, and it was not known where he could be found, and the claim had been neglected. Under these circumstances Mrs. Bemis sought and obtained an introduction to Mr. Taylor, of the firm of Taylor & Wood, and by letter begged Mr. Taylor to take charge of her case and prosecute the same for her, (see her letter, p. 7; her letters to Mr. Rawle, p. 149 and p. 151, Exhibit "F.")

After conferring with his partner Mr. Taylor consented to take charge of the case, and Mr. Wood, one of the firm, notified her of the fact, and informed her that it would be necessary for her to forward a power of attorney to enable them to take charge of the case. The terms proposed by Mrs. Bemis in her first letter, (p. 7,) which were the usual terms, were accepted, and she returned a contract to that effect, (see p. 8.) She not only understood the contract, but had suggested the terms herself, and expressed her gratitude to Mr. Rawle for his interposition in her behalf, and repeats to him that Taylor & Wood had accepted her terms, (see Exhibit F, p. 151.)

Mr. Taylor took charge of the case with some reluctance, and only at the urgent request of Mrs. Bemis and his friend Mr. Rawle. After three years of constant and laborious effort on the part of the firm of Taylor & Wood, an allowance of that portion of the claim recognized by the Commission was secured, to wit, $27,310.00.

In the meantime Mrs. Bemis had entered into two other contracts agreeing to pay twenty per centum of the allowance in the claim to two other parties, to wit, ten per cent. to John Ray and ten per cent. to Thaddeus Watterman. The first contract, with John Ray, was made with the knowledge and consent of Taylor & Wood; and the latter one, with Watterman, without their knowledge.

The fifty per cent. offered by Mrs. Bemis in her first letter and ratified in her contract was the ordinary and usual fee paid in these contingent cases. This fact was well known to Mrs. Bemis, and hence her offer of that amount,

and her contract. The contracts made with Ray & Watterman were entirely independent of the contract made with Taylor & Wood, as volunteered by Mrs. Bemis. They were not bound in any way to pay those claims; but they assumed them and did pay them out of their own fee, and would not permit Mrs. Bemis to pay any portion of that amount. The amount awarded to Mrs. Bemis and her children was $27,310.00. This amount was divided into two equal portions—and then from the amount of $13,655, belonging to Mrs. Bemis, $943.33 for the note and interest for money loaned to her was deducted, leaving $12,711.67 due, for which a draft was delivered to Mrs. Bemis; and to the half belonging to Taylor & Wood, the $943.33 was added, making the draft paid to them $14,598.33. These two sums, $12,711.67 to Bemis and $14,598.33 to Taylor & Wood, make $27,310.00, the amount allowed on the claim. The amount deducted on note for loaned money and interest is proved and also admitted by counsel for Mrs. Bemis, (p. 135.) Mr. Taylor afterwards paid ten per centum of the gross amount awarded, to wit, $2,731.00, to John Ray, (see p. 59,) and the same amount, $2,731, to Thaddeus Watterman, (see receipt, p. 124,) making together the sum of $5,462. This was voluntarily paid by Taylor & Wood out of their stipulated fee, simply to protect Mrs. Bemis from any further payments.

This left Taylor & Wood thirty per centum on the amount awarded, or twenty per centum less than Mrs. Bemis had offered and contracted to pay.

The Bill Charges

That the said Laura J. Bemis was duly appointed natural tutrix to her infant children, (pp. 1, 5.)

That the said Taylor prosecuted said claim before the Southern Claims Commission; that he procured a power of attorney to enable him to do so, and that he procured

a pretended agreement for one-half of said claim for the collection thereof, and that such contract is null and void and ought to be cancelled; and that the said Taylor unlawfully appropriated $14,598.33 of said award to his own use.

That said Taylor claimed that he made certain disbursements in the prosecution of said claim, and has refused to account for the same.

That the said complainants by their next friend claim each one-fourth of said amount, and the said Laura J. Bemis one-fourth, but they are willing to pay the said Taylor a reasonable compensation for the services rendered, "if the court so determine."

The bill was filed by Henry H. Dudley, claiming to be next friend, without permission or order of court, as the next friend of Belle Bemis, Elizabeth Bemis and Mattie Bemis, infants, against George Taylor and Laura J. Bemis, the latter being the mother and natural tutrix of said infants, and shows that the said Laura J. Bemis was duly appointed natural tutrix to said infants by the court of their parish in the State of Louisiana, and that they reside in the State of Louisiana; and said bill makes no averment that the said infants or either of them are or ever were residents of the District of Columbia or the city of Washington, but, on the contrary, expressly declares that they are residents of Louisiana temporarily staying in Canada. That the father of the said infants resided with the said Laura J. Bemis in the State of Louisiana when he died, leaving his estate subject to the laws of said State, and afterwards, on the death of the said next friend Henry H. Dudley, a motion was made to substitute the name of William B. Webb as next friend, but no action was taken on said motion.

THE ANSWER TO SAID BILL

Admits that said heirs reside in Iberville parish, Louisiana, and that Mrs. Laura J. Bemis was appointed their natural tutrix.

Admits the execution of the power of attorney and the contract, and gives a copy of the same. It denies that the power of attorney and contract were "procured" from Mrs. Bemis, and charges that they were voluntarily executed and sent to Taylor & Wood before they had seen Mrs. Bemis, and without solicitation, and precisely as stated in in the 5th section of the answer, (p. 5.)

Answer admits that an award was made for $27,310, and that he deducted under said contract one-half of said claim and $800 advanced to Mrs. Bemis, with interest, amount-to $14,598.33, which is one-half of said claim, with the note and interest, $943.33, added, and had delivered to Mrs. Bemis $12,711.67, which is one-half the amount of the award, less the note and interest deducted therefrom.

The said answer charges that Mrs. Bemis had entered into other contracts respecting the prosecution of said claim, and bound the said award for the payment thereof, to wit, 20 per centum on the gross amount of the award, and that at the request of the said Bemis the said 20 per centum was paid, but that the said Taylor refused to charge it to Mrs. Bemis's portion, but paid said amounts out of his own fee, thereby leaving 30 per centum for their own fee.

That the said heirs are entitled to one-half of said claim, and that the said Laura J. Bemis was entitled to one-half thereof.

The answer of Laura J. Bemis to said complaint admits everything, and proves only the conspiracy against her attorneys to defraud them out of their fees.

THE CROSS-BILL OF LAURA J. BEMIS

Charges that the appropriation to pay the $27,310 was made for the benefit of herself and daughters; that she

did employ the said Taylor to prosecute the said claim *through the influence of various persons*, and that she did sign some kind of a contract to pay for the services of said Taylor, and that at the time of signing said contract she had great confidence in the fair-dealing and integrity of the said Taylor, and that she signed all papers, believing them necessary and proper in the prosecution of said claim, and that she was unaccustomed to business and ignorant of her own rights in the premises, but she is advised by counsel that if the said Taylor does hold such contract that it is null and void, &c.; that the said Taylor did nothing in the prosecution of said claim, except the depositions, &c., and he, the said George Taylor, did receive one-half of the claim allowed and $943.33 for money loaned to Mrs. Bemis; that he, the said defendant, appropriated the one-half of said claim, and refuses to pay the same over to claimants.

In view of the evidence taken in this case and embraced in the record, this honorable court will be enabled to judge of the accuracy of this cross-bill.

The Answer to this Cross-Bill.

The answer to the cross-bill is a general denial of the charges it makes, a statement of the money paid to Watterman & Ray out of his own fees, and an admission that the claimant did try to get possession of the Treasury draft, and that the Secretary of the Treasury refused to permit the attempted fraud of claimant.

Mr. Wood's answer to the bill and cross-bill adopts the answers made by Mr. Taylor, averring that they are true in every particular, (p. 14.)

Review of the Testimony.

Mrs. Bemis testifies as follows:

1st. That her name is now Laura J. Willis.

2d. That she was the widow of the late John Bemis; that she was married to him 16th June, 1859, at Pecan Grove plantation, Iberville parish, in Louisiana.

3d. That the said Bemis died January 1st, 1867, (p. 21.)

4th. That three children were born to them and are living—Elizabeth Metcalf, 17 years old; Mattie Sample, 12 years, and Belle Cyrene, 10 years old, (p. 21.)

5th. In answer to ints. 7 and 8 she describes the location of the plantation in Louisiana and how the property was taken, (p. 21)

6th. She says that she employed Faute & Bradford, of New Orleans, to assist her in prosecuting her claim, and that they sent the papers on to Washington to be filed, (p. 21.)

7th. That she knew nothing of D. G. Barnetz, the attorney of record in her case, but she knew that the papers were all prepared and filed, (p. 21.)

8th. That in 1863 she was advised by Major Rawle to employ Mr. Taylor, saying that he informed her that Mr. Taylor would advance all necessary funds to defray expenses, but that he would charge her one-half for doing so; that Major Rawle urged her to do this, and that it was better to get half than wait, (p. 22.)

9th. She avoids producing the letters by declaring that she had lost them, &c., (p. 22.)

10th. Admits that she executed a power of attorney to prosecute the claim, (p. 22.)

11th. Answer No. 15: says that she did not know that she executed another power of attorney in January, 1875, in Washington, but at the time she was in Washington, having been ordered on by Mr. Taylor, and expecting to get her award; that she recollected signing an acknowledgment of the money he (Taylor) had advanced, and also a paper he gave her to understand he required in bank to procure her fifty dollars a month, which he promised to supply her until the adjustment of the claim; she admits that she got no further accommodations, and says that she

signed the power of attorney without reading it, &c., (p. 22;) and in answer to int. No. 16, says that she was not aware of giving any second power of attorney, (p. 22.)

12th. Answer No. 18, admits signing the contract; and in answer 19 that she read it; but in answer 20 says that she had no experience in business matters and did not know how it would affect the rights of herself and children, (p. 23.)

13th. In answer 22 she says that Taylor and Mr. Wood assured her of a large award, $80,000 or $90,000, (p. 23.)

14th. She says that Taylor & Wood told her that they found all the papers to their hands properly filed, and that they would have no trouble, &c., (p. 23.)

15th. Says she does not know what services they rendered in the case; brought on four witnesses, &c., (p. 23.)

16th. That she indorsed the draft against her will and protest, and tried all she could to get possession of the draft, (p. 23.)

17th. She says that she was poor and needy, (p. 24.)

18th. In answer to interrogatory 31 she gets the freedom of a general interrogatory and betrays her animus by the concentration of abuse and untruths far in advance of the knowledge of such an innocent creature. Mr. Taylor would not support her; imposed an impecunious ward upon her; would not pay her bills; that Mr. Taylor was remiss in his correspondence, giving her little or no information about her case; that in fact the principal contents of his letters were that he could not and would not support her, or, in her words, assist her, which he had promised to do; but the worst part of his treatment was keeping her in Washington and New York hotels at an expense of $1,200 to $1,300, forcing her to sacrifice her silver and valuables to pay the expenses, and by duplicity in getting papers for the purpose of assisting her and then using them against her, (but she does not say what papers.)

19th. In her cross-examination she says that the planta-

tion belonged to her husband, but that the products, etc., were all raised after their marriage, (p. 25.)

20th. In answer to eleventh cross-question she says that she did not employ Barnetz, and did not know what he had done, (p. 25.)

21st. In answer to cross-question 12 she says Major Rawle's advice was volunteered; does not think that he gave her a letter of introduction, but he may have written to Mr. Taylor; he told me what Mr. Taylor would charge, (p. 25.) And to cross-question 14, that Mr. Rawle recommended Mr. Taylor, and told her that Taylor would charge one-half, (p. 25.) And she believes that she did offer to give that amount; she was satisfied at the time, but Judge Aldis told her it was an outrage, (p. 25.)

22d. Witness's whole answer to cross question 21 should be read; it cannot be shortened, and we beg to refer to it as a whole, (p. 26.)

23d. Witness says in her answers to cross-questions 21, 22, 23, and 24, that Taylor told her that her claim was good and ready for action, &c., (p. 26.)

24th. Witness says that all the testimony taken was collected by herself before Taylor & Wood took charge of the case. She knows of no other except taking the testimony of herself and witness, (p. 27;) but Taylor was a very bad fellow, would not write to her, and she wrote expressing much dissatisfaction and her disapproval of his conduct in the case, (p. 27.)

25th. Says Taylor & Wood were to bear all the expenses, and that she never knew Mr. Ray, and never held any communication with him, and never entered into any contract or agreement with him, (p. 27;) but she did employ Watterman, owing to information received that her attorneys were neglecting her case, (p. 27.)

26th. Witness admits that she did try to keep the draft out of Taylor's hands, thinking he had not done right by

her; but she certainly would have done right by him if she had succeeded in getting the draft away from him.

This is the testimony of this extraordinary witness, unsupported by a single letter or a single witness. No one corroborates a single declaration she has made. Her testimony shows the shrewd, cunning, and unscrupulous woman; the other testimony will show her to be worse.

The following testimony was taken in reply, and, for the sake of convenience, we will refer to it in answer to the particular charges made by Mrs. Bemis.

In No. 8 Mrs. Bemis says that Mr. Rawle advised her to employ Taylor, and informed her what he would charge her, (p. 22,) and in answer to cross-question 12 she says that "the recommendation was volunteered," (p. 25.) On p. 148 Major Rawle says: "I am not personally acquainted with Mrs. Laura J. Bemis," but says that a Mr. Samuel Ayles applied to him for a letter of introduction to his lawyer at Washington, stating that Mrs. Bemis was not satisfied with her lawyer, and he then recommended Mr. Taylor. Subsequently he received a letter from Mrs. Bemis, which is marked "B." (This letter will be found at page 68 of record.) And afterwards Major Rawle received the letter marked Exhibit C, (p. 149.) Top of page 149 Mr. Rawle says: "I never saw Mrs. Bemis, and never had any conversation with her. * * * I never did advise Mrs. Bemis that Mr. Taylor would advance the necessary funds to take the witnesses to Washington and defray all expenses, nor did I advise her that Taylor would want one-half for so doing. I never advised Mrs. Bemis that Taylor would recover the full amount, nor did I ever argue with her it would be better for her to get one-half than wait."

Here is a distinct and emphatic denial of everything Mrs. Bemis has sworn to on that subject, and every word said by Major Rawle is sustained by her own letters.

Major Rawle's letter transmitting Mrs. Bemis's letter to

him may be found on p. 67. Her letter thus transmitted by Major Rawle is on p. 68. In this letter she seeks a letter of introduction to Mr. Taylor, and says, "I am willing to give one-half for the other," showing that she volunteered those terms before she had any letter or communication from Major Rawle, or had seen him, and while she was asking the letter of introduction. Yet she swears that Major Rawle told her what Mr. Taylor would charge, and urged her to accept; that it was better to have half than wait. Her own letters and Major Rawle's testimony show that she perfectly understood what she had proposed, and that she made that proposition to induce Mr. Taylor to take charge of her claim.

She admits that she voluntarily executed the contract and the power of attorney to enable Mr. Taylor to take charge of her case before she had seen Mr. Taylor; and in letter of October 27th, 1873, she thinks he will rejoice with her because the firm of Taylor & Wood have accepted the charge of her claim, (p. 151.) The last part of her letter (p. 152) shows how utterly incorrect her testimony on the subject of the employment of Taylor & Wood, through recommendation, &c., of Major Rawle, is.

11th. In Mrs. Bemis's answer to interrogatory 15, p. 22, she says that Taylor ordered her on from Canada, and that she expected to get her award; that she was not aware that she had signed another power of attorney. The first one from Louisiana (pp. 51–52) was the ordinary one in such cases, but it was thought important, to avoid any difficulty, to have a second one, expressly revoking Mr. Barnetz's authority. Judge Aldis referred to this matter in the presence of all parties, (p. 90.) The Judge says: "I know that it was said at the time that Mr. Taylor ought to be the only attorney in the case, and an order was made accordingly, and from the nature of the entry on the registry I have no doubt that it was made on the personal application of Mrs. Bemis." The power of attorney out of which

Mrs. Bemis attempts to impute deception and fraud was simply putting in writing what she had ordered to be done in open Commission. The rule of the Commission and of the Treasury Department was, to have the draft delivered to the attorney of record for the protection of his fees. This question arose at the sitting of the Commission, as Judge Aldis testifies that by Mrs. Bemis's direction an order was entered definitely settling who was the attorney of record. The power of attorney was intended as a further evidence of that fact. Complainant's testimony about the object of her visit is equally groundless. She came to meet Col. Holabird on the suggestion of the president of the Commission, and she had and could have no idea that she was going to receive her award.

Judge Aldis says: "I thought it very desirable to bring them face to face (*i. e.*, Col. Holabird and Mrs. Bemis). He had told Mr. Taylor of Col. Holabird's expected visit, and he supposed that Mr. Taylor wrote to his client and told her to come on; at any rate, on the day appointed they were all present," (pp. 85 and 86.)

12th. Mrs. Bemis admits signing the contract, but says she had no experience in business and did not know what effect it would, &c., (p. 23.) This statement is made with her first letter in full view, after she swore that Major Rawle had advised her of Mr. Taylor's charges, and agreed with her that it would be better to take half than wait, every word of which Major Rawle pronounces untrue. But no one can believe that she did not know what she was doing, and what she offered, and what effect it would have on the amount allowed on her claim, after reading her letter making the offer, and her letters to Major Rawle. (First letter to Major Rawle, p. 68; first letter to Mr. Taylor, p. 141, in which the offer of 50 per centum is made; and see testimony of W. Wood, p. 69.)

13th. Mrs. Bemis's testimony that Taylor and Wood assured her of a large award is equally untrue. The testi-

mony shows that Mr. Wood had particular charge of the business before the Southern Commission, and that he examined and managed this case. He says that her statements on that point are incorrect, (p. 78.) Her statement of what her counsel said respecting the papers on file—the preparation of the case, &c., under the 14th head—is also contradicted by Mr. Wood, (p. 79;) and the testimony of Judge Aldis (pp. 89 and 90) shows that nothing had been done in the case until the employment of Taylor and Wood. They filed their power of attorney December 3, 1873, (p. 89,) and the hearing of the case commenced. Before that time nothing had been done but the filing of the memorial. And at the time when Mrs. Bemis was present she personally applied to the commissioners to have Taylor and Wood entered formally as attorneys of record, which was done. (See Judge Aldis's testimony, pp. 89 and 90.)

15th. Mrs. Bemis tries to lessen the services performed by her counsel. The testimony of Wood and Taylor, of Judges Aldis and Ferris, and of Mr. Benjamin show how utterly untrue her imputation is, and that she adds ingratitude to untruth.

Mrs. Bemis in answer to interrogatory 23 (p. 23)—

"Yes. Taylor and Wood told me that they found all the papers to their hands properly filed, and they would have no trouble, but just go ahead."

Mr. Wood says (last answer on p. 74) that they found "no vouchers, no receipts, and no testimony whatever had been taken in the case;" and he never told her that the papers were on file, &c., as she stated, (p. 75.)

Judge Aldis shows by the record of the history of the claim that nothing had been done before Taylor and Wood took charge of the case but filing the memorial, (p. 89.)

Mr. Benjamin, secretary of the Commission, corrobo-

rates these facts, (p. 90.) Judge Ferris also corroborates these facts, (p. 83.)

(See Mr. Taylor's testimony on this point, p. 122.)

There were no papers on file, and her testimony that Taylor and Wood or either made the statement she attributes to them is without the shadow of truth.

18th. Her imputations against Mr. Taylor in her general and volunteer answer to the 31st interrogatory are as untrue and groundless as the balance of her testimony. Her own letters contradict her, and the testimony shows that she has lost all sense of propriety and justice. The testimony shows (p. 73) that Mr. Taylor was compelled to pay her hotel bills here in Washington, to furnish her money to go to New York, where he hoped her friends would take care of her.

Col. Wood says (p. 73) that she had no money to pay her hotel bill in Washington, and he understood from both Mrs. Bemis and Mr. Taylor that he had paid the bill for her. As to her bills in New York, her own letters show the condition she was in and that Mr. Taylor again aided her. (See letters, p. 116, dated May 18th, 1874.)

"My Dear Mr. Taylor: I write to you in a very great emergency to ask you what I can do; they notified me on Thursday that I must leave the Stevens House, as I owe $84; at the same time that evening seized my baggage, and would not even allow me my small satchel with a few articles of underclothing for little Bell, and they say that they will release it upon no condition but that of my bill being paid."

This bill was paid by Mr. Taylor, and then he found her in the same condition at the Hoffman House, and had to pay her bill there and furnish her funds to get to Canada. It is useless to copy her letters; (look on pages 116 and 117;) and yet this woman swears that Taylor detained her in New York to force her to sacrifice her silver, &c. (See

test., pp. 115 and 116.) All these points are referred to, not because they have any particular bearing upon the case, but to show the character of the witness in making charges against her attorneys after their labor had been performed and she was trying to prevent them from getting compensation for it.

Respecting the employment of Judge Ray, Mrs. Bemis says that she never saw him nor had any communication with him whatever, and she never agreed to pay him for his services. As Judge Ray was one of the parties paid by Mr. Taylor, it may be considered necessary to see what the facts are in this particular.

Col. Wood says that she did authorize the employment of Judge Ray, and agreed to pay him ten per centum of the amount awarded to her, (see p. 72.)

"I was present at the hotel at several conversations in reference to the employment of Judge Ray between Mr. Hawk, who was the agent of Judge Ray, and Mrs. Bemis and myself, and Mr. Hawk, who had just come up from Louisiana, stated that he was satisfied that Judge Ray would be willing to bring on the witnesses for 10 per cent., and my impression is that Mrs. Bemis assented to it and was very anxious to make the arrangement."

Captain Hawk confirms this testimony and gives the particulars of the final arrangement, (p. 154,) and finally, on the exhibition of her letter to Judge Ray, her counsel admitted that she had written to Judge Ray, (bottom p. 125.) The employment of Judge Ray and the services he performed are placed beyond all question. She admits that she did agree to pay ten per cent. to Watterman, but it was done when she understood Taylor was doing nothing in the case. This contract bears date September 5, 1864, (p. 157.) She had just left Washington, and her letters dated from New York show whether she had lost confidence in her attorneys, (pp. 116 and 117;) but her letter on that subject

shows how utterly untrue her statement is. (See bottom of page 128.)

"DEAR SIR: Yours of August 26th, with enclosures, came safely to hand to me to-night. I note Mr. Watterman's letter, and think it advisable to act upon his suggestion. You can rest assured there has been no interference on my part—simply to aid you, as well as myself, by giving points to my brother-in-law and Mr. Watterman which would enable them to prove for you the quantities taken, and also the value."

Watterman was employed by Mrs. Bemis, and his fees made a lien upon her claim. These fees Mr. Taylor voluntarily paid to protect her interests. (See Watterman's receipt, p. 124, foot of page.)

All this testimony proves that Mrs. Bemis did employ Watterman, and when she was in daily and most cordial communication with her counsel, and constantly expressing her confidence and obligations; that she knew and did correspond with Judge Ray, and did employ him, and that he did perform the services for which he was specially employed. Which contradicts her testimony in every particular, and shows that she is totally unworthy of belief.

The testimony further shows that Taylor and Wood were not legally bound to pay these fees to Ray and Watterman; but that they voluntarily assumed them and paid them out of their own stipulated fee, so that Mrs. Bemis might get her one-half free from any charge they might make, (see receipt of Watterman, p. 124, and Ray's acknowledgment of the payment of the ten per centum to him, p. 59.) These payments left Taylor and Wood thirty per centum for their fee, notwithstanding the stipulated percentage of fifty per cent.

The bill prays that the contract may be declared void, and that Taylor and Wood may be compelled to account, and that only a just compensation may be allowed them for the services actually performed. With this view com-

plainants offer the testimony of various witnesses to prove what such services were worth.

1st. Eugene Carusi, who says that he never collected a claim against the Government, but has been engaged in the District in collecting claims on indebtedness from individuals. He knows nothing about the business before the Claims Commission, and says so, (p. 29.) The same remarks may be made of the testimony of W. W. Johnson. These witnesses do not understand that all these cases are taken on a contingent fee. Mr. Johnson says, in answer to the first cross-question, that he would not consider the 20 per cent. spoken of as a fair compensation for such services; that in fact he would not take such a case, (p. 33.) The testimony of Mr. Webb, now the pretended next friend, is to the same effect, (p. 36.) Mr. Thos. C. Fullerton says the usual rate before the Claims Commission is twenty-five per cent., but these fees depend upon contract. It will be seen that all the questions put to this witness assume that $27,000 is allowed, but this, like all other cases, depended upon contingencies, and no one could tell what would be allowed. The testimony of Nathaniel Wilson and Thos. Wilson sustain the charge of the defendants.

In reply to this testimony defendants offered the testimony of John Ray, esq., of Louisiana. He swears that he was employed by Mrs. Bemis in this case for the particular purpose of bringing on the witnesses, and was to receive 10 per cent. on the allowance for such services, and that Mr. Taylor paid that amount, (p. 59.) He says that he is interested in a large number of cases from Louisiana before the Southern Claims Commission—from 150 to 200 cases—and that with one or two exceptions the contracts have been for 50 per cent. on the allowance, (p. 60.) The testimony of F. C. Wood shows all the facts in the case, and contradicts Mrs. Bemis's testimony in every particular.

Col. P. E. Dye was called by the defence. He says that

the usual fee in ordinary cases before the Claims Commission is from 25 to 30 per cent., and when the expenses are paid 50 per cent., (p. 92.) This gentleman has had a large practice in such cases.

Hon. Joseph Casey, formerly Chief Justice of the Court of Claims, says he has had a large practice before the court and commissions, and testifies that the fees under such circumstances range from 40 to 50 per cent., but most of them at 50 per cent., (98.)

Charles F. Peck corroborates Judge Casey's testimony. He considers the payment of the 20 per cent. to protect claimant from any further payment an act of generosity, (p. 103.)

Major Hosmer testifies to the same facts, (pp. 104 and 105.) Mr. Richards to the same effect, (pp. 110, 111.) All these witnesses—Dye, Casey, Peck, Hosmer, and Richards—have been and were engaged in the business of prosecuting claims, and know what the usual fees were.

On the foregoing testimony the court set aside the contract and gave judgment against Taylor & Wood for $5,121.13, with interest from the 24th day of October, 1876, and costs; and dismissed the cross-bill of Laura J. Bemis, (p. 158.)

From this decree the defendants appealed to the general term of the Supreme Court of the District of Columbia. When the case came on for hearing, the said general term modified the decree in the Chancery Court below, and adjudged that the said Laura J. Bemis and the said complainants have and receive from the said Taylor & Wood $5,461.17, with interest from the 24th day of October, 1876. And the said court further ordered that said sum should be divided between the said Laura J. Bemis, Belle Bemis, Elizabeth Bemis, and Mattie Bemis, share and share alike; from which decree the said Taylor & Wood appealed to this honorable court, (pp. 160, 161.)

Assignment of Errors.

First. The court erred in taking jurisdiction of the case.

Second. The court erred in setting the contract aside and in giving judgment against defendants, Taylor & Wood.

Third. The court erred in giving judgment in favor of the children, and in the division of the fund among the widow and survivor and the children.

Argument.

First. The proper parties were not before the court, and the court had no jurisdiction. The parties reside in the State of Louisiana, and the estate belongs there. The record shows that there was a tutrix regularly appointed, and the law requires the appointment of an under-tutor; and these parties are the only persons authorized to bring an action. The heirs never resided within the jurisdiction of the court of the District of Columbia, and the court had no authority to oust the legitimate representatives of the children and permit strangers to get possession of the estate, or any part of it.

Second. The record shows that the estate of John Bemis was held in community with his wife. Everything found in the possession of the husband at his death is presumed to be community property. The community is dissolved by the death of either party, and then one-half goes to the survivor and the other half to the heirs of the deceased. (Civil Code, Arts. 2399, 2400, 2402, 2405, 2406. 23 Annual Rep., 638, Walker *v.* Kinbrough.)

Third. The surviving parent by law becomes the natural tutor or tutrix to the children; in this case Mrs. Bemis was duly recognized by the court. (Civil Code, Art. 250.)

Fourth. The survivor administers the estate in his or her own right and as tutor or tutrix of the children. They administer the estate, collect the debts, and reduce all into possession in their own names; and all instruments and contracts are made by the tutor in his own name, without the concurrence of the minor. (Art. 351.)

Fifth. The tutor is personally responsible for the amount agreed to be paid for any services; and if in the settlement of the account the minor or under-tutor thinks more has been paid than ought to be, they have their claim against the tutor; but when the consideration paid inures to the benefit of the minor children they cannot repudiate it. (Succession of Johnson, 4 A., 253; Sanford *vs.* Waggaman, 14 A., 852; Elkins' Heirs *vs.* Elkins' Executor, 11 La., 226; Waterman *vs.* Gibson, 5 A., 672; Deldhoussay's Heirs *vs.* Bienvenue et al., 10 La., 272 to 275.)

In this latter case it was charged that the tutrix contracted an illegal debt, and then permitted a judgment to be taken against her by default, which was afterwards paid; and the heirs brought their action to set aside and annul the judgment. The court said: "The tutor had a right to dispose of the money in his hands under his responsibility, and we are of the opinion that under such circumstances the plaintiffs (the heirs) must look to their tutor if he has maladministered their estate."

Sixth. Mrs. Bemis, in her own right owning one-half of the claim, and representing the estate, had full authority to make the contract in this case. The amount agreed to be paid in the contingent case was the usual and ordinary amount agreed to be paid in such cases. It resulted to the benefit of the heirs, but if it had not done so they were bound by the action of the survivor and tutor, as the amount agreed to be paid was covered by her own interest

in the claim, and she had a right to do what she pleased with her own.

Seventh. To allow a party to volunteer a contract whereby the services of strangers were secured in any business, and then permit them to annul said volunteer contract and recover back the amount paid under the said contract, would be inequitable and unjust.

Eighth. The defendants (appellants in this court) were entitled to receive and retain the whole fifty per cent. under the contract, but, to protect the tutrix and heirs, they assumed and paid, out of their own fifty per cent., twenty per cent. to other attorneys employed by the tutrix—thus reducing the amount retained to thirty per cent. This amount was voluntarily paid out of their own fees, and did not require them to administer on the estate of the heirs.

This was the ground upon which the general term of the District court acted. It will be seen that it allowed the defendants to retain their thirty per centum, but gave judgment against them for the amount they had voluntarily paid out of their own fees to Ray & Watterman—$5,461.27; the exact amount was $5,462.00—saying that they had no right to administer the estate, when in fact the record shows that they voluntarily made the said payment for the benefit and protection of the estate.

Ninth. The contract was made by the only party having authority to make it, and was made for the usual and customary percentage paid in contingent cases, and is valid and binding.

NATHANIEL WILSON,
Of Counsel for Appellants, T. & W.

110-42

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IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

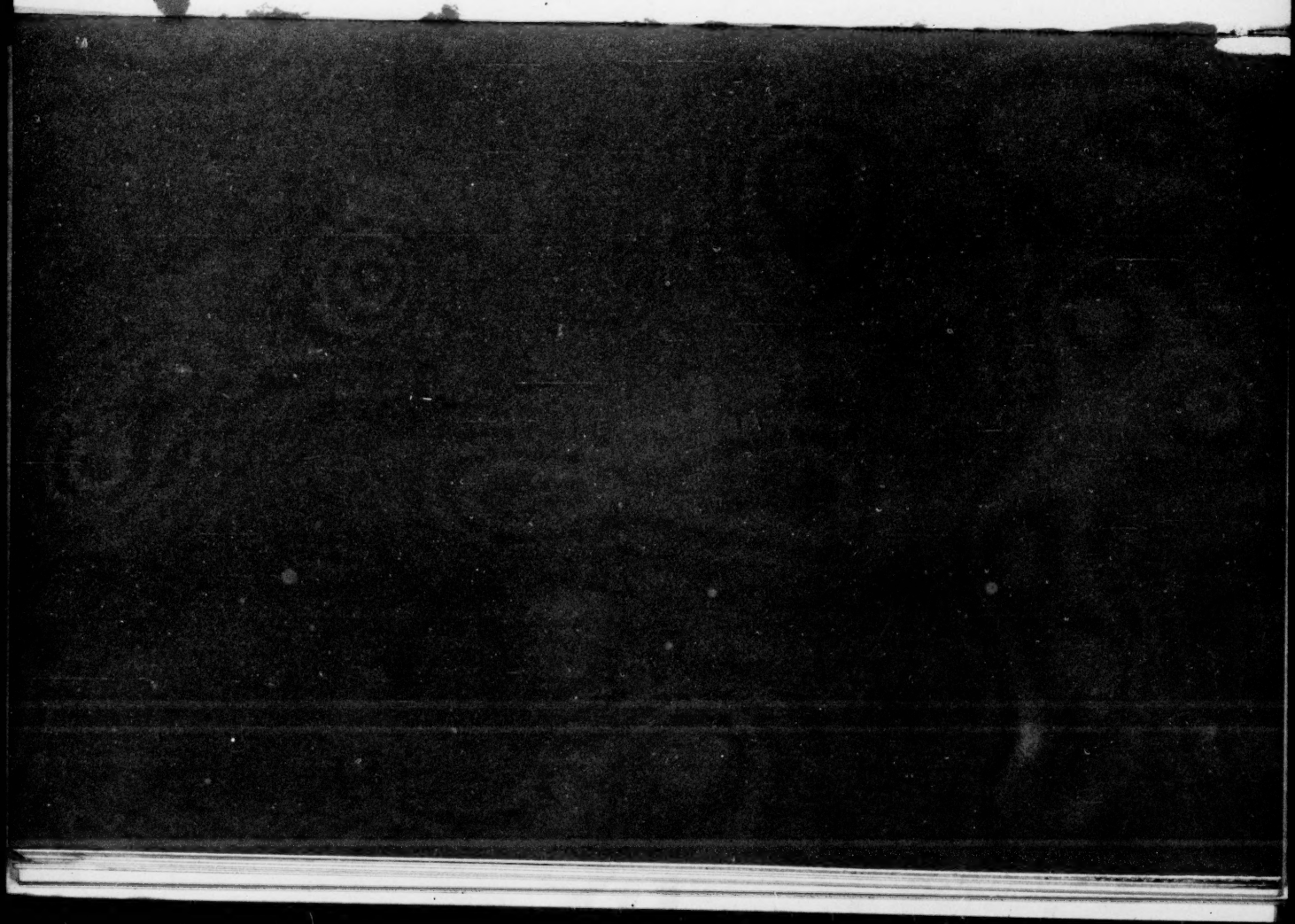
ELIZABETH BEMISS, *et al.*
Appellants,
vs.
GEORGE TAYLOR, *et al.*
Appellees.
No. 165.

GEORGE TAYLOR, *et al.*
Appellants.
vs.
ELIZABETH BEMISS, *et all.*
Appellees.
No. 164.

Cross appeals from the Supreme Court of the District of Columbia.

ENOCH TOTTEN,
For Complainants in Original Bill.

R. O. POLKINHORN, PRINTER, WASHINGTON, D. C.



SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

ELIZABETH BEMISS, *et al.*
Appellants,
vs. No. 165.
GEORGE TAYLOR, *et al.*
Appellees.

GEORGE TAYLOR, *et al.*
Appellants.
vs. No. 164.
ELIZABETH BEMISS, *et all.*
Appellees.

Cross appeals from the Supreme Court of the District of Columbia.

BRIEF FOR ELIZABETH BEMISS, ET AL.

The bill in this cause was filed in December, 1876, in behalf of the infant children of John Bemiss, by their next friend, seeking to enforce an accounting for moneys collected by the firm of Taylor & Wood, attorneys of the city of Washington.

George Taylor and F. C. Wood through the Southern Claims Commission, in 1876, collected a claim against the United States, amounting to $27,310.00 belonging to the widow and three infant children of John Bemiss, deceased,

and for their *professional* services kept the half of the said amount so collected—that is to say, they charged and retained for such collection the sum of $13,655.00. The bill in this cause was filed in behalf of the infants against Taylor and Wood to compel them to account for the money so collected, and to pay over all except a reasonable compensation. Mrs. Bemiss is made a defendant, but she filed her cross-bill praying the same relief against Taylor and Wood.

Statement of Facts.

The material facts in the case are these: John Bemiss of the State of Louisiana, was possessed in that State, during the late rebellion, of a large quantity of personal property. In 1863, it was taken and used in the military service of the United States. Bemiss died in 1867, leaving a widow, the defendant Laura J. Bemiss, and three minor children, the complainants in the court below. In 1870, Laura J. Bemiss was by the proper court of Louisiana, appointed tutrix of these minor children. Soon after the organization of the commission, commonly called the "Southern Claims Commission," and on the 21st day of September 1871, Laura J. Bemiss presented her petition to said commission praying payment for the property so taken for the use of the army. Her attorney, at that time, was one D. G. Barnitz who, it appears, soon afterwards dropped out of the case. On the 25 day of November, 1873, Mrs. Bemiss undertook to make an agreement with the defendants, Taylor and Wood, which is in the words and figures following, to wit:

> "The undersigned hereby agree to employ Messrs. Taylor & Wood, of Washington, D. C., as her attorneys for the prosecutions of her claim against the United States, now pending before the Southern Claims Commission, No. 7,316, on behalf of herself and minor heirs of John Bemiss, deceased; and in consideration of the services of said Taylor & Wood in prosecuting said claim

against the government, she hereby *agrees to give them fifty per centum of whatever sum or sums of money may be recovered* from the United States Government on account of said Claim.

PLAQUEMINE, IBERVILLE PARISH, LA.,

November 25th, 1873.

LAURA J. BEMISS."

The firm of Taylor & Wood thereupon took charge of the case and prosecuted it to final payment. Five (64, 71, 79) witnesses were sent from Louisiana by one Ray, at an expense to him of about $700 (64-5); they were examined in behalf of the claimants before the commission, by Taylor or Wood. Mrs. Bemiss was also examined in that behalf, and the Government called and examined one witness, Col. Holabird, a quartermaster of the army. These were all the witnesses examined in the case, and such examinations were concluded within two or three days. (72, 76, 80.)

An award was made by the commission and reported to Congress in favor of the claimants for $27,310.00, and by an act of Congress approved August 14, 1876, (19 Stat. 479) an appropriation was made to pay "to Laura J. and her daughters, Belle, Elizabeth and Mattie Bemiss," the said sum of $27,310.00. On or about the 24th of October, 1876, this appropriation, being in readiness for payment, the sum of $14,598.33 thereof was paid to George Taylor, and the sum of $12,711.67 was paid to Laura J. Bemiss. The amount paid to Taylor was one half of the appropriation, increased by loans made by Taylor to Mrs. Bemiss, amounting to $800.00, with interest thereon and some trifling expenses amounting altogether to $943.33. As to this latter amount there is no controversy. Before the payment was made, the defendant Laura J. Bemiss presented to the Secretary of the Treasury a protest against such payment to Taylor, but it was without avail. She thereupon made

her protest and received the draft drawn for her. (23, 51, 52.)

The cause was heard in the Special Term on the pleadings and evidence, and a decree was passed on the 20th of July, 1878 (158), against the defendants, Taylor and Wood, for the sum of $5,121.13, with costs, in favor of the complainants, and dismissing the cross bill of Mrs. Bemiss. The court, apparently, arrived at this sum by holding Mrs. Bemiss to her agreement to pay fifty per centum of her share of the appropriation (*i. e.*, $6,827.50), and taking no account of the money loaned her, and allowing twenty-five per centum for fees as against the children. From this decree all the parties appealed to the General Term; the latter court modified the decree (160), and charged the defendants, Taylor and Wood, with a round sum ($5,461.17) which was, by the decree, equally divided between the widow and the three children. The allowance by the General Term for fees, amounts to *thirty per centum of the amount collected.*

From this decree all the parties appealed to this court, and the following assignment of error is made in behalf of the complainants below, to wit:

Assignment of Error.

The court below erred in making the allowance for fees to the defendants, Taylor and Wood. Fifteen per centum is the maximum allowance for fees, which a court of chancery should give in such a case.

Points and Authorities.

The appropriation in question was a mere act of bounty on the part of the Government, and payable only to the persons named, share and share alike. It was not for the benefit of the estate of John Bemiss.

The material parts of the act are as follows:

"AN ACT making appropriations for the payment of claims reported allowed by the Commissioners of Claims under the act of Congress of March third, eighteen hundred and seventy-one, and for other purposes.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any moneys in the Treasury not otherwise appropriated, to the *several persons* in this act named, the *several sums* mentioned therein, the same being in full for, and the receipt of the same to be taken and accepted in each case as a full and final discharge of, the several claims presented by such persons to the Commissioners of Claims under the act of March third, eighteen hundred and seventy-one, and reported to the House of Representatives under the said act; that is to say:—

* * * * * * *

"OF THE STATE OF LOUISIANA.

"To Laura J., and her daughters Belle, Elizabeth, and Mattie Bemiss, twenty-seven thousand three hundred and ten dollars." (19 Stat., 479.)

John Bemiss resided during the war in enemy's country, that is to say, he lived south of and beyond the "line of bayonets" established and maintained by the army, spoken of in the case of Mrs. Alexander's cotton (2 Wall., 404), and his property was therefore liable to capture; such capture changed the right of property *instanter*, and the title immediately passed to the captor. *Lamar* vs. *Brown*, 2 Otto, 195; *Haycraft* vs. *The United States*, 22 Wall., 81.

If the estate of John Bemiss was insolvent, as the testimony seems to show, the creditors of the estate could not have successfully asserted any claim to this appropriation. If Congress had intended that this donation should inure to the benefit of the estate of John Bemiss, it would have been

made to Mrs. Bemiss in her representative capacity; it would then have constituted assets in her hands, and would have been liable for the debts of the estate to whomsoever they might belong, to loyal or disloyal persons alike.

The act of Congress organizing the Southern Claims Commissioners (16 Stat. 524,) authorizes the Commissioners "to receive, examine and consider the justice and "validity of such claims as shall be brought before them of "those citizens who *remained loyal* adherents to the cause and "the government of the United States during the war, for "stores or supplies taken or furnished * * * for the use of "the army." The act requires that before an award shall be recommended by the Commissioners to Congress the Commissioners "shall be satisfied" * * * of the "*loyalty and adherence*" of the claimant to the government. There was no remedy known to the law, to correct the wrong upon Bemiss until the act of March 3, 1871, provided the remedy through this commission and future appropriations. The Commissioners were only an auditing board. The appropriations gave the award its only life. This was merely the *bounty* of the government by way of reward for *loyalty*. The appropriation is clearly personal; disloyal citizens were excluded from the jurisdiction of the Commissioners. Hence the appropriation was a personal bounty to the widow of a loyal citizen, and to his children, and was not made for the benefit of the creditors of the Bemiss' estate. Such creditors, if any, were probably disloyal, and such persons have always been excluded from the bounty of the government. The government has a right to bestow its bounty upon whomsoever it may please to select for that purpose.

By the language of the act, the appropriation is given to the four persons severally, share and share alike, being the sum of $6,827.50 each. See *Campbell* vs. *Mullett*, 2 Swans., 578; *Ogden* vs. *Strong*, 2 Paine, C. C., 584; *Whiting* vs. *Cook*, 8 Allen, 63.

It was attempted by the agreement (8) in this case to transfer or assign one-half of this claim, and the agreement therefore, is obnoxious to the provisions of section 3477 of the Revised Statutes. *Trist* v. *Child*, 21 Wall., 441; *Spofford* v. *Kirk*, 97 U. S., 484.

For the same reason the agreement made with Waterman (157) was void.

But it is not material whether this paper, given to Taylor & Wood by Mrs. Bemiss, is valid or invalid, so far as the infant children are concerned. Courts of equity are charged with the duty of protecting the interest of children against rapacious attorneys; a contract for a fee of fifty *percentum* in a case involving the most trifling labor, as this is, must necessarily be held void by a court of equity. It is the peculiar duty of courts of equity to protect the rights of children and married women. (2 Story's Eq. Juris., §1327, *et seq.*) It is only necessary to read a few of the numerous letters written by Mrs. Bemiss to be convinced that she was utterly unfit to take care of the estate of infants, and also to satisfy the court that she was just the kind of a woman to fall a victim to the grasping disposition of a designing claim agent.

It will not escape the attention of the court that this woman, in addition to the fifty percentum claimed by Taylor & Wood, had agreed to pay to Waterman a fee of ten percentum, making sixty percentum in all which she contracted to pay. An attempt has been made to prove that she also em ployed Ray, and agreed to pay him ten percentum also, but the weight of evidence shows that she had nothing to do with the arrangement with Ray (26, 27, 59, 72, 81).

It is conceded that the attorneys in this case are entitled to a fair compensation for the work they did, and the only question here is what that compensation should be.

There is no reason why those who pursue the business of collecting claims against the Government should be paid

greater fees than a lawyer, for like services. The examinations of witnesses and the preparation of papers, in this case, did not involve the labor of a common law replevin suit to recover a horse, and little or no professional skill. The Bar Association of this District has adopted a rule of *minimum* fees for collections, and five per cent. is the rate established for collections of sums over five thousand dollars. (32.) If respectable lawyers can collect money in ordinary collection cases for five per centum, persons who collect claims ought surely to be satisfied with three times that amount.

In *Wylie* vs. *Cox* (15 How., 315) this court sanctioned an allowance of five per centum, and ten per centum in *Wright* vs. *Tebbitts* (91 U. S., 252).

Several witnesses were called in this case on each side to prove thevalue of the services, and, as is usual in such cases, many differences of opinion were developed. But, it is submitted, that the better opinion is that the rate of charges usually made in small cases varies from fifteen to twenty-five per centum, and that in cases like this, where large sums are involved, the rate should be much lower, and that fifteen per centum is a large and liberal allowance.

The court will find no difficulty in ascertaining the extent of the "labor and anxiety" (118, 120, 121) bestowed on this case by the defendants, Taylor and Wood. Five witnesses were sent up from Louisiana by Ray, and they were examined here by Mr. Wood. Mrs. Bemiss was twice examined, and Col. Holabird was examined. This is the extent of the depositions.

No argument, written or oral, was submitted to the Commission. All that was done in the way of argument consisted in personal interviews with individual Commissioners.

(See Dep. of Wood, 67, 72, 76, 80, 81. Also, of Taylor, 121, 124, 132–5.)

Mr. Ray seems to have done some service and expended some money, for which he was entitled to a fair allowance, but ten per centum or $2,731.00, was wholly out of proportion to the services and disbursements. Why Taylor & Wood should have paid Waterman $2,731.00, is difficult of comprehension. This anxiety on their part to pay out money, amounts to a confession of wrong in the matter of this agreement. (See 82, 124.) That Waterman did nothing whatsoever and deserves nothing is plain. There is not a word of proof that he rendered any service, except his own assertion: "I did perform my duty." (157.) His contract was made at a period when nearly everything had been done, (89, 90,) and furthermore it is void on its face. (157.) It attempts to transfer an interest in a claim against the United States.

But Taylor and Wood were without authority to pay Waterman at the expense of the complainants and their mother; such payment, as well as that to Ray, should be put out of sight in arriving at the amount of compensation due them here. They volunteered these payments, and should be held to the consequences; they took this course after full notice that Mrs. Bemiss had determined to repudiate the agreement which they had obtained from her. (23.) Let them bring their action and recover their money both from Ray and Waterman.

It is submitted, therefore, that the following allowances, and not more, should be made to the defendants, Taylor and Wood, to wit:

For services in collecting the claim, 15 per cent. of $27,310	$4,096 50
For cash loaned to Mrs. Bemiss, with interest	943 33

For cash expended by Ray in bringing witnesses to Washington.....		700 00
		$5,739 83
Mrs. Bemiss has been paid.....		12,711 67
		$18,451 50
Balance of the appropriation, to wit: $27,310.00		
	18,471.50	
		8,858 50
		$27,310 00

The decree should be modified so as to require the defendants, George Taylor and Frank C. Wood, to pay to the complainants and to their mother the sum of $8,858.50, with interest thereon from October 24, 1876, the amount to be equally divided between them.

ENOCH TOTTEN,
For Complainants in Original Bill.

110-42

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

LAURA J. BEMISS, (Otherwise Willis.) *Appellant*, *vs.* ELIZABETH BEMISS, *et al.* *Appellees.*	No. 166.
ELIZABETH BEMISS, *et al.* *Appellants*, *vs.* GEORGE TAYLOR, *et al.* *Appellees.*	No. 165.
GEORGE TAYLOR, *et al.* *Appellants.* *vs.* ELIZABETH BEMISS, *et all.* *Appellees.*	No. 164.

Cross appeals from the Supreme Court of the District of Columbia.

BRIEF FOR LAURA J. BEMISS, APPELLANT.

The bill in this cause was filed in December, 1876, in behalf of the infant children of John Bemiss, by their next friend, seeking to enforce an accounting for moneys collected by the firm of Taylor & Wood, attorneys of the city of Washington.

George Taylor and F. C. Wood through the Southern Claims Commission, in 1876, collected a claim against the United States, amounting to $27,310.00 belonging to this appellant and her three infant children. For their *professional* services they kept the half of the said amount so collected—that is to say, they charged and retained for such collection the sum of $13,655.00. The bill in this cause was filed in behalf of the infants against Taylor and Wood to compel them to account for the money so collected, and to pay over all except a reasonable compensation. This appellant was made a defendant, and she filed her cross-bill praying the same relief against Taylor and Wood.

Statement of Facts.

The material facts in the case are these: John Bemiss of the State of Louisiana, was possessed in that State, during the late rebellion, of a large quantity of personal property. In 1863, it was taken and used in the military service of the United States. Bemiss died in 1867, leaving a widow, the appellant Laura J. Bemiss, and three minor children, the complainants in the court below. In 1870, said Laura J. Bemiss was by the proper court of Louisiana, appointed tutrix of these minor children. Soon after the organization of the commission, commonly called the "Southern Claims Commission," and on the 21st day of September 1871, said Laura J. Bemiss presented her petition to said commission praying payment for the property so taken for the use of the army. Her attorney, at that time, was one D. G. Barnitz who, it appears, soon afterwards dropped out of the case. On the 25 day of November, 1873, this appellant undertook to make an agreement with the defendants, Taylor and Wood, which is in the words and figures following, to wit:

> "The undersigned hereby agrees to employ Messrs. Taylor & Wood, of Washington, D. C., as her attorneys

for the prosecutions of her claim against the United States, now pending before the Southern Claims Commission, No. 7,316, on behalf of herself and minor heirs of John Bemiss, deceased; and in consideration of the services of said Taylor & Wood in prosecuting said claim against the government, she hereby *agrees to give them fifty per centum of whatever sum or sums of money may be recovered* from the United States Government on account of said Claim.

PLAQUEMINE, IBERVILLE PARISH, LA.,

November 25th, 1873.

LAURA J. BEMISS."

The firm of Taylor & Wood thereupon took charge of the case and prosecuted it to final payment. Five (64, 71, 79) witnesses were sent from Louisiana by one Ray, at an expense to him of about $700 (64-5); they were examined in behalf of the claimants before the commission, by Taylor or Wood. Mrs. Bemiss was also examined in that behalf, and the Government called and examined one witness, Col. Holabird, a quartermaster of the army. These were all the witnesses examined in the case, and such examinations were concluded within two or three days. (72, 76, 80.)

An award was made by the commission and reported to Congress in favor of the claimants for $27,310.00, and by an act of Congress approved August 14, 1876, (19 Stat. 479) an appropriation was made to pay "to Laura J. and her daughters, Belle, Elizabeth and Mattie Bemiss," the said sum of $27,310.00. On or about the 24th of October, 1876, this appropriation, being in readiness for payment, the sum of $14,598.33 thereof was paid to George Taylor, and the sum of $12,711.67 was paid to Laura J. Bemiss. The amount paid to Taylor was one half of the appropriation, increased by loans made by Taylor to Mrs. Bemiss, amounting to $800.00, with interest thereon and some trifling expenses amounting altogether to $943.33. As to this latter

amount there is no controversy. Before the payment was made, Laura J. Bemiss presented to the Secretary of the Treasury a protest against such payment to Taylor, but it was without avail. She thereupon made her protest and received the draft drawn for her. (23, 51, 52.)

The cause was heard in the Special Term on the pleadings and evidence, and a decree was passed on the 20th of July, 1878 (158), against the defendants, Taylor and Wood, for the sum of $5,121.13, with costs, in favor of the complainants, and dismissing the cross bill of Mrs. Bemiss. The court, apparently, arrived at this sum by holding Mrs. Bemiss to her agreement to pay fifty per centum of her share of the appropriation (*i. e.*, $6,827.50), and taking no account of the money loaned her, and allowing twenty-five per centum for fees as against the children. From this decree all the parties appealed to the General Term; the latter court modified the decree (160), and charged the defendants, Taylor and Wood, with a round sum ($5,461.17) which was, by the decree, equally divided between the widow and the three children. The allowance by the General Term for fees amounts to *thirty per centum of the amount collected.*

From this decree all the parties appealed to this court, and the following assignment of error is made in behalf of the complainants below, to wit:

Assignment of Error.

The court below erred in making the allowance for fees to the defendants, Taylor and Wood. Fifteen per centum is the maximum allowance for fees, which a court of chancery should give in such a case.

It is submitted, therefore, that the following allowances, and not more, should be made to the defendants, Taylor and Wood, to wit:

For services in collecting the claim, 15 per cent. of $27,310		$4,096 50
For cash loaned to Mrs. Bemiss, with interest		943 33
For cash expended by Ray in bringing witnesses to Washington		700 00
		$5,739 83
Mrs. Bemiss has been paid		12,711 67
		$18,451 50
Balance of the appropriation, to wit:	$27,310.00	
	18,471.50	
		8,858 50
		$27,310 00

The decree should be modified so as to require the defendants, George Taylor and Frank C. Wood, to pay to the complainants and to their mother the sum of $8,858.50, with interest thereon from October 24, 1876, the amount to be equally divided between them.

FRANK T. BROWNING,

Counsel for Laura J. Bemies, Appellant.